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The Municipal World

Page 87

ESTABLISHED 1891

PUBLISHED MONTHLY
IN THE
INTERESTS OF THE
MUNICIPAL INSTITUTIONS
OF ONTARIO

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B. Affidavit to be placed on the roll as a voter, sec. 24.

C. School census books, ½ quire, sec. 29.

D. Notice by non-resident to be assessed, sec. 33, s. s. 6.

E. Assessment Return for parties to fill in, including income return.

Return of employes, sec. 17.

F. Assessment Notices, sec. 28; 46.

G. Assessor's affidavit, sec. 47.

Recapitulation of Assessment roll.

Municipal Clerk to Assessor, notice list of lands liable to be sold and assessor's return. sec. 122.

NOTE—All Assessment Rolls and Notices in use in former years are now obsolete and cannot be adapted to present requirements.

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*Declaration of secrecy
*Oath of deputy-returning officer
*Oaths to be taken by voters
Declaration of inability to read, with attestation clause attached
Statement of voters whose votes were marked by D. R. O
Ballot-paper account
Notes of objections taken to ballot-papers
Return papers for making statement of the result of the polling
Directions for the guidance of voters for posting up
Act for prevention of corrupt practices, for posting up
Packets required by deputy-returning officers at close of poll:
A B C D
E F G
Certificate entitling deputy-returning officer, poll clerk and agents to vote where stationed
Agent's appointment
Agent's declaration
By-law Ballot Acts, for information of deputy-returning officers
Lead pencils for marking ballot-papers,
Sealing-wax, sticks
Ballot-boxes, metal, with padlock

Forms Required by Jurors' Act.

R. S. O., Chapter 61, Sections 21, 28, 29.

Oath to be taken by selectors
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Set of ½ doz. forms of oath and 3 sheets each first, second, third, and fourth divisions, for annual report
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Tile, Stone and Timber Drainage Act

Owner's application for loan
Statutory declaration of applicant for loan
By-law imposing special rate
Debentures

Public Health Act

Schedule B. Section 17, Rules 3 and 4

Placards of contagious disease on heavy card for posting up—
Typhoid fever Measles
Scarlet Fever Diphtheria
Whooping Cough, Mumps
Small-pox
Report of infectious disease
Report of death or recovery from infectious disease
Certificate of vaccination
Certificate of unsusceptibility
Ontario Public Health Manual, by J. M. GLENN, K. C

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Notice of sale for taxes.
Notice to tenant to pay rent to collector
Collector's account to treasurer
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Arrears of Taxes

FORMS.

Clerk's notice of uncollected taxes
Municipal clerk to county treasurer, non-resident tax-roll
Collector to treasurer, statement of uncollected taxes
Municipal treasurer to county treasurer, statement of unpaid taxes (new form)
County treasurer to municipal clerk, list of lands liable to be sold for arrears of taxes
Municipal clerk to assessor, notice with list of lands liable to be sold
Municipal clerk to county treasurer, occupied return
County treasurer to municipal clerk, statement of arrears to be entered on collector's roll
Treasurer's tax deeds

BOOKS.

Register of Arrears of Taxes
Triplicate Receipt Books
Duplicate Receipt Books
Record of Tax Sales (Copyrighted)
Certificates of Tax Sales
Redemption Receipts
Tax Deed Description Registers
Treasurers Certificate of Taxes due

Forms Required Under the Voters' Lists Act

FOR USE OF CLERK.

Form 1—For making printer's copy of Voters' List

State number of polling sub-divisions in list when ordering Form 1.

Form 2—Certificate to be endorsed on Voters' List
Form 3—Clerk's notice of first posting of Voters' List
Clerk's Voters' List book

Voters' Lists Act, Section 9a (1).

Form 4—Voters' notice of complaint, ground of disqualification
Form 5—Notice and application by voter to whom persons have transferred property
Form 6—Voters' notice of complaint,
Form 7—Clerk's report in case of appeals and complaint to the judge,
Form 9—Notice to be posted by clerk in his office with list of complaints,
Form 10—Clerk's advertisement of court in newspaper
Form 11—Clerk's notice to parties complaining
Form 12—Clerk's notice to parties complained against
Form 14—Report of clerk when applying for certificate under section 20.

FOR USE OF COUNTY JUDGE.

Form 8—Judge's order for appointing court hearing of complaints and appeals
Form 9a—List of appeals for use of judge at court
(When requested, we bind this form without extra charge.)
Form 13—Subpœna referred to in section 18
Form 15—Certificate of no complaint,
Form 16—Statement of alterations by judge on half sheet:
Part (1)—Names added to list
Part (2)—Names struck off list
Part (3)—Changes in description of property
Part (4)—Changes in names of voters
Form 17—Certificate of judge
Form 18—Order for payment of costs,
Form 18a—Order for payment of bailiff's costs.
Form 18b—Assessor's costs
Form 18c—Clerk's costs
Form 19—Writ of execution
Form 20—Order for assessment of persons omitted from roll
Form 21—Application to judge against delinquent clerk
Form 22—Summons—"The Voters Lists Act,"

Poundkeepers' Forms

Agreement with poundkeeper
Poundkeepers' notice to clerk
Poundkeepers' statements
Acts respecting pounds

Statute Labor Forms.

Statute Labor List No. 1—Containing space for thirty names
Statute Labor List No. 2—(Half foolscap, very neat) for eighteen names
Statute Labor Books—
Gravel certificates

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The Municipal World

ESTABLISHED 1881
PUBLISHED MONTHLY IN THE INTERESTS OF THE MUNICIPAL INSTITUTIONS OF ONTARIO

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A SPECIALTY

Aemilius Jarvis & Co.

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MADE IN CANADA.

Entirely new design
Mixes dry or wet
Especially adapted
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Best Crushed Stone

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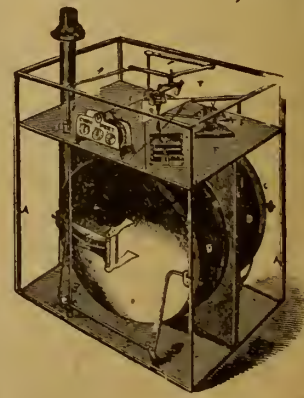

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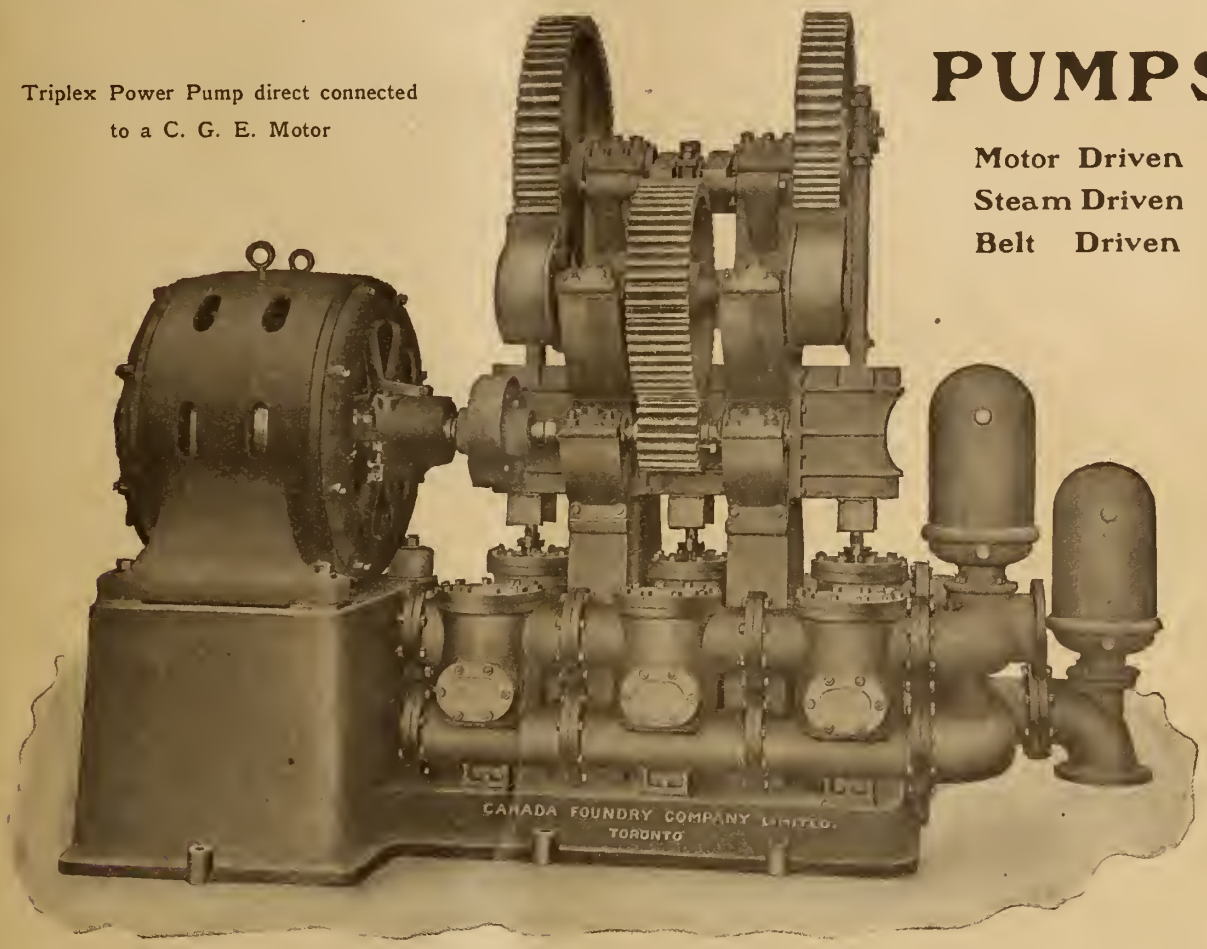

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A full line of Waterworks Supplies carried in stock. Valves, Valve Boxes, Cast Iron Gas and Water Pipe, Tees, Crosses, Hydrants and Special Castings of all kinds.

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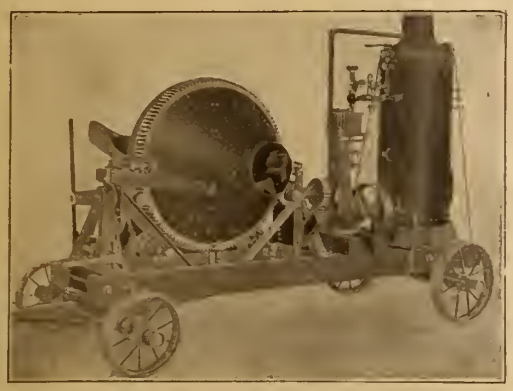

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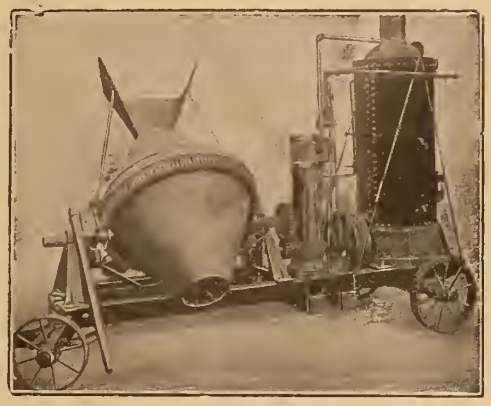
Smith Mixer on Trucks with Engine and Boiler



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CONCRETE MIXERS

Mounted on Skids or Trucks. Special styles for Municipal Work.

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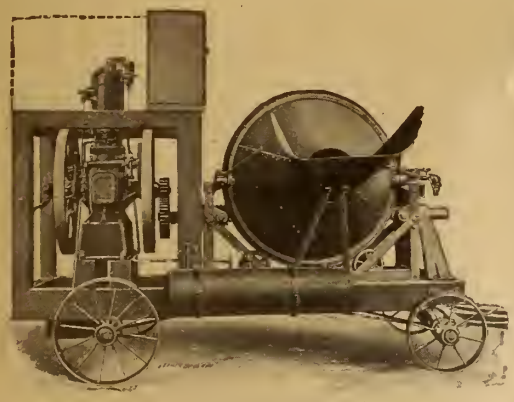
Capacity, 50 to 350 Cubic Yards per day.



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Our New Model Smith Street Machine for Street and Sidewalk Work has Rear Discharge

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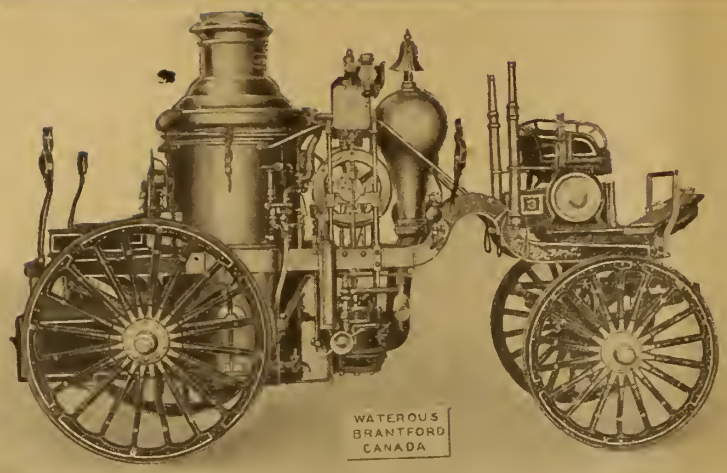

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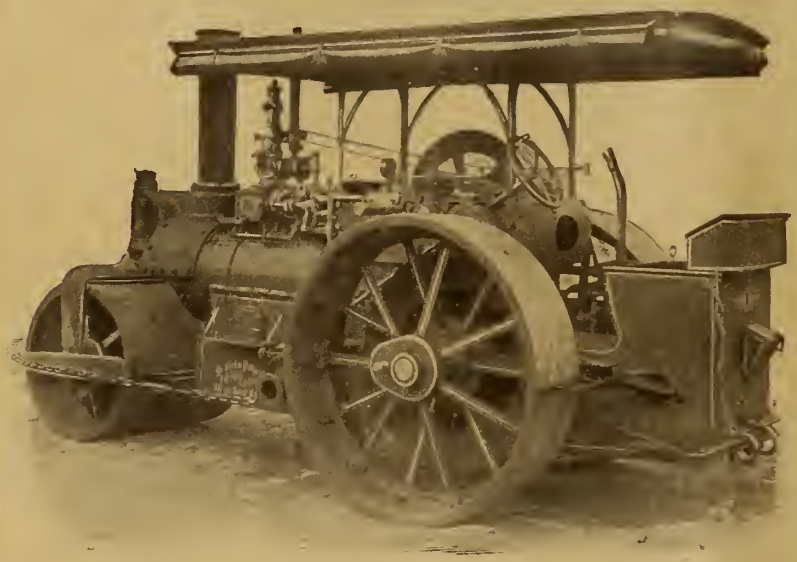

Road Rollers, three sizes, 10, 12, 15 ton. Also Rock Crushers, Screens, Elevators, etc.

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The Bitulithic Pavement

is the popular pavement in Toronto and seventy-five other cities where permanency and ease of traction are considered.

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Notice to Contractors

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On Woodlawn ave., from Yonge st. to west end.

Envelopes containing tenders must be plainly marked on the outside as to contents.

Plans and specifications may now be seen, and forms of tender obtained at the office of the City Engineer.

The usual conditions relating to tendering as prescribed by City By-law must be strictly complied with.

The lowest or any tender not necessarily accepted.

THOS. URQUHART, ESQ., Mayor.
Chairman Board of Control.

City Hall, Toronto, October 14, 1904.

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The Warren Bituminous Paving Co., Ltd.

164 BAY ST., TORONTO

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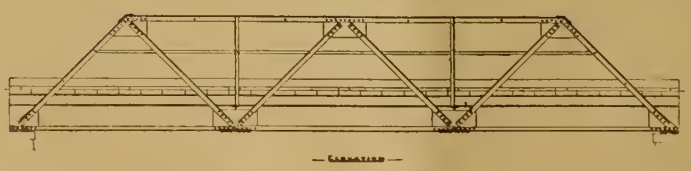
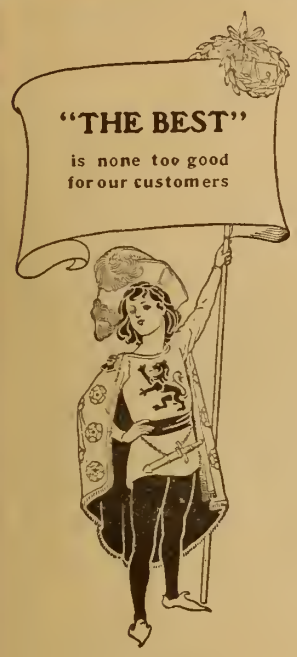
Builders of Highway Bridges and Structural Work.



Latest improved permanent floors of Concrete and Expanded Metal.

Write for Estimates.

A. HILL & CO. Mitchell, Ont.



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High Grade Road Making Machinery

For Municipalities

GRADERS—Steel, Western Reversible.
ROLLERS—Horse and Steam, both 2 and 3 wheel types.
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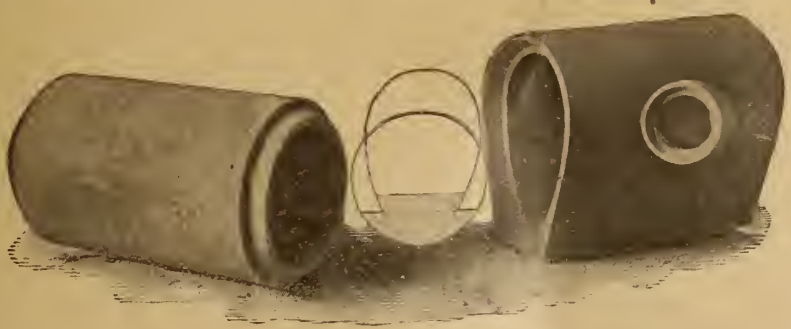
MOULDS—For making concrete drain tile and well curbing, 4 to 36 inches in diameter, &c., &c.

☞Write us to-day for prices and estimates.

Sawyer & Massey Co., Limited, HAMILTON, CANADA

North's Ideal Egg-Shaped Portland Cement Concrete Stone Sewer PIPE, WITH BASE



Practical advantage of the adoption of this form of Sewer Pipe—12 reasons why they should be adopted: 1. Having a base, the pipe is stronger, and the upright wall is supported. 2. By their forms resting upon a base, they are less liable to break. 3. More safely tapped than clay pipes 4. From their shape, the velocity of the sewerage will be maintained with the minimum as well as the maximum flow. 5. Smoother than the average glazed clay pipes. 6. No lime embedded in the concrete pipes to swell and burst them. 7. No blisters, slivers or fire-cracks. 8. No sockets projecting below the lower line of pipe. 9. Joints can be close-fitting or loose, as desired. 10. The joints, when properly cemented, are the strongest parts. 11. Less excavation than for round pipe of same carrying capacity. 12. Made from material that age improves in the ground, and practically indestructible.

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Correspondence solicited. Inspection invited. Quotations cheerfully given. Special inducements on car load lots. QUALITY IS OUR MOTTO.

Ebenezer North Co., Works on Talbot St., near Carling's Brewery Phone 849

MANUFACTURERS, LONDON, ONT. Residence, 328 St. George St., Phone 837

We would respectfully invite inspection at our works before letting sewer contracts to examine for yourselves North's Ideal Egg-Shaped Concrete Stone Pipe, with base.

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For English, Scotch and Canadian Clients.

The very highest prices paid for Debentures of Counties, Townships, Towns and Villages.

G. A. Stimson & Co.

24-26 King St. W. TORONTO

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The Municipal World

Published Monthly in the interests of Every Department of the Municipal Institutions of Ontario.

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Calendar for January, 1905.

Jan. 1. New Year's Day.
By-laws for establishing and withdrawal of union municipalities for High School purposes take effect.—High Schools Act, section 8, (1), (2).
By-law establishing Township Boards takes effect.
Separation of Junior Township takes effect.

2. Election day.

3. High Schools open, second term.—High Schools Act, section 45.
Public and Separate Schools open.—Public Schools Act, section 96, (1, 2); Separate Schools Act, section 81.

4. Polling day for Trustees in Public and Separate Schools.—Public Schools Act, section 60, (3); Separate Schools Act, section 31 (3).
First meeting of Rural School Trustees.—Public Schools Act, section 17 (1).

5. Trustees' Report on Truancy due.
Make return of deaths by contagious diseases registered during December.—R. S. O., chapter 44, section 11.

7. Treasurer and Registrar of Deeds, making payments to other municipalities, to send detailed statements to head of same.—61 V., chapter 23, section 11.

9. Councils of Townships, Villages, Towns and Cities to hold their first meeting at eleven o'clock a. m.—Municipal Act, section 259.
Members of Library Boards to be appointed by Councils in Cities, Towns and Villages.—Public Libraries Act, section 9.

11. Clerk of municipality to be notified by Separate School supporters of their withdrawal—S. S. Act, Section 37 (1)
Annual Meeting of Township Agricultural Societies, at 1 p. m.

14. Names and addresses of Sep. School Trustees and Teachers to be sent to Dep't.
Names and addresses of Public School Trustees and Teachers to be sent to Township Clerk and Inspector—P. S. Act, section 19 (1)
Annual Report of School Boards to Department due.

15. Annual Report of Separate Schools to Dep't due.—S.S. Act, S. 28 (18), S. 33 (9).
Trustees' Annual Report to Inspectors due.
Minutes of R. C. S. S. Trustees' annual meeting to Department due.
Application for Legislative appointment for inspection of Public Schools in Cities and Towns separated from the County or Department, due.
Annual Report of Kindergarten attendance to Department due.
Last day for Pound Keepers to file annual statement with Clerk.
Last day for making returns of Births, Deaths and Marriages, registered for half year ending 31st December—R.S.O., Chapter 44, Section 11.
Last day for Treasurers of Municipalities indebted under Municipal Loan Fund Act, to make returns of Taxable Property, Debts and Liabilities to Provincial Treasurer.

16. By-Law withdrawing from Union Health District takes effect—R.S.O., c. 248, s. 50
Trustees of Police Villages to hold their meeting at noon.—Municipal Act, s. 737

18 First meeting of Public School Trustees in Cities, Towns and Incorporated Villages—P. S. Act, Section 64 (1)
Annual meeting District Agricultural Society.

24 County Council to hold 1st meeting, 2 p. m., at Court House or County House.
Appointment of High School Trustees by County Councils.—H. S. Act, s. 13.

31. Last day for all councils to make returns to Bureau of Industries of the debts of their corporation.—Con. Municipal Act, 1903, Section 427.

The Municipal World

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K. W. McKAY, Editor.
A. W. Campbell, C. E. J. M. Glenn, K.C., LL. B.
Associate Editors.

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ST. THOMAS, ONTARIO, JANUARY 2, 1905.

THE MUNICIPAL WORLD.

With this issue The Municipal World enters upon its fifteenth year of publication. It is now the oldest municipal journal in America, if not in the world, and the only one of the kind published. Its growth has been steady. The management has always been in the hands of active municipal officers whose aim is to make the paper indispensible to everyone interested in the government of Ontario municipalities. The Question Drawer has developed to a remarkable extent; during the last five years it has contained answers to over five thousand eight hundred questions submitted by subscribers, of which 1,499 were answered during 1904. Our legal advisors often differ with opinions expressed by others, but they are almost invariably sustained by the courts. This is a record that can only be accounted for by a large, practical, and ever increasing experience in the field of municipal law. Their opinions are authoritative and at the service of subscribers desiring information. The Engineering Department deals with the subject of municipal improvements and public utilities generally, and has done much to influence the proper expenditure of money on roads and bridges and direct the attention of municipal authorities in a practical way, to the best methods of carrying on municipal work. In general, The Municipal World endeavors to be helpful and assist members of councils and their officers in the administration of the municipal laws of the Province. The best evidence of success in this regard is the annual increase in our subscription list and the patronage of the Supply Department, both of which are necessary if the present standard of the paper is to be maintained.

Co-operation on the part of municipal officers with The World has in the past done much to improve the municipal government in Ontario. Subscription orders are usually for the whole council and its officers at the expense of the corporation.

The Municipal World should be in the hands of every councillor and official interested in the good government of his municipality.

The Assessment Act, an extended reference to which appears in this issue, provides for additional sources of municipal revenue. The business assessment is the most important; it reaches every business and professional man, and in most urban municipalities will afford equitable relief to the ordinary property owner, who is now highly taxed.

* * *

The new Act renders all old assessment rolls, notices, etc., obsolete. Care should be taken to procure a new supply in proper form. It is expected that assessors will, in making this year's assessment make free use of the General and Income Return, Schedule (E), and also return as to employees.

* * *

The lowering of the income exemption in the case of non-householders will result in tbe payment of taxes by wage-earners who have never been called upon before. Income and Employers Returns will place assessors in possession of the necessary information.

* * *

The present is a good time to get out of a rut in assessment matters. Councils should consider this and endeavor to start right by appointing assessors competent to make an equitable valuation of real property, who are not afraid to assess income that may have been overlooked in the past.

* * *

The taxation of railways appears to find favor with politicians in their ante-election policies. This question will soon be reported by the Commission on Railway taxation. The Legislature at its last session increased the Provincial tax on railways from $5.00 to $30.00 per mile, or $40.00 where there is a double track. The increase in the amount paid to the Province by the Grand Trunk Railway, owing to this change, is $66,000.00. Railway taxation for both municipal and provincial purposes averages over $75.00 per mile. The Provincial tax is now equivalent to the full tax on the franchise value of a railway at the average municipal rate. If any change is made it should be in the direction of removing the restrictions placed on assessors when valuing railway lands, so that they may be assessed as other land at actual value. This would increase railway taxation for municipal purposes very largely. The recommendations of the Commission in this connection will be awaited with interest.

* * *

The appointment of members of the local board of health is important. Their authority to safeguard the public health is unlimited, and their right to draw on the municipal treasury for expenses exceeds that of the council, which can only relieve itself of responsibility by appointing the most capable men in the municipality to the office.

* * *

The Municipal World is regarded by those directly interested in local government as indispensible.

The Assessment Act

Assessors.

The inauguration of the new Assessment Act will this month be entrusted to assessors appointed by the various municipal councils. The law requires this appointment in all municipalities to be made annually, except in cities where there is an assessment commissioner. Every effort should be made to secure the services of the most efficient men available for the position. A great deal depends on his work. He will not be able to copy last year's roll, as many have been known to do in the past, but will require to consider each parcel of property for the purpose of determining the values of land and buildings, which now have to be entered separately. This will tend to correct inequalities that may have crept into the rolls of former years and enable ratepayers generally to criticise the assessor's work more effectively.

The question of salary to be paid should not be a first question. An unfair assessment causes great injustice or trouble and expense if an appeal is taken to the Court of Revision. Careless work will result in omissions in population returns, thereby reducing the legislative school grants, which are apportioned to the municipalities on this basis throughout the province. A failure to assess all the dogs will be a loss to the municipal revenue. In these days of political unrest mistakes in the entry of manhood franchise or other voters on assessment roll is the cause of numerous appeals against voters' lists at the expense of the municipality.

These are the indirect ways in which an under-paid or incompetent assessor may be more expensive than one who receives ample pay for the time necessary to do the work in the manner contemplated by the Act.

Exemptions.

The new assessment law provides for the usual exemptions of crown property, churches, public educational institutions, county, city, town, and other public halls, roads, municipal property, parks, immigration aid societies, public libraries, and other scientific and literary institutions, machinery used for manufacturing or farming. The exemption of churches and educational institutions does not free them from local improvement rates in all cases.

Assessment of Land.

Land is defined to include :

a. Land covered with water.

b. All trees and underwood growing on land.

c. Mines, minerals, gas, oil, salt, quarries and fossils in and under land.

d. All buildings or any part of any building and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land.

e. All structures or fixtures erected or placed upon, in, over, under, or affixed to any highway, road, street, lane or public place or water, but not the rolling stock of any railway, electric railway, tramway or street railway.

With the exception of mineral lands all real property is to be assessd at its actual value in the municipality in which it lies and in the case of cities and towns in the ward in which it lies. In assessing land having any buildings thereon : the value of the land and buildings is to be ascertained separately and so entered in the assessment roll ; the value of the buildings is to be the amount by which the value of the land is thereby increased. In making an assessment of land and buildings the assessor should first value the land and afterwards determine the value of the whole property, the difference being the value of the buildings for assessment purposes. This has no reference to the cost of the buildings and can be easily understood when the prices paid for farms with and without buildings are considered. Mineral lands are to be valued as other lands—but the income derived from a mine is assessable. Special provision is made for the valuation of farm lands or blocks of more than five acres in towns, villages, and cities. In townships, land is to be assessed against the owners and occupiers. Non-resident owners who have given the necessary notice are to be assessed as resident. In cities, towns, and villages resident and non-resident owners are to be assessed in the same way. The sections relating to this are new, as are also those referring to married women, whose husbands are to be entered on the roll, and trustees, executors, and guardians, who are in the same position as owners. A tenant now includes occupants and persons in possession other than the owner.

Business Assessment.

The assessment of personal property has been abolished, and every person occupying or using land for the purpose of any business is hereafter to be assessed for a sum called Business Assessment, to be computed by reference to the assessed value of the land so occupied or used for the purposes of his business. This is a personal assessment, the tax on which is to be paid by the person engaged in the business.

The rate of business assessment is a fixed one, varying from 25 to 150 per cent. of the land value.

This is the most important feature of the new law, which classifies busines and fixes the percentage of assessment as follows :

(a) Every person carrying on the business of a distiller for a sum equal to 150 per cent of the said assessed value.

(b) Every person carrying on the business of a brewer for a sum equal to 75 per cent, of the said assessed value of the land occupied or used by him for such business, exclusive of any portion of such land occupied and used by him as a maltiug house and for a sum equal to 60 per cent of the assessed value as to such last mentioned portion.

(c) Every person carrying on the business of a wholesale merchant, of an insurance company, a loan company or a trust company, as defined by this Act, or of an express company carrying on business on or in connection with a railway or steamboat, or sailing or other vesels, where such land is occupied or used mainly for the purpose of its business, or of a land company, or of a bank or a banker, or of any other financial business for a sum equal to 75 per cent. of the said assessed value.

(d) Every person carrying on the business of a manufacturer for a sum equal to 60 per cent. of the said assessed value ; and a manufacturer shall not be liable to business assessment as a wholesale merchant by reason of his carrying on the business of selling by wholesale the goods of his own manufacture on such premises.

(e) Every person practicing or carrying on the business of what is known as a departmental store, or of a retail merchant dealing in more than five branches of retail trade or business in the same premises under one roof, or in connected premises, where the assessed value of the premises exceeds $20,000, or of a coal or wood or lumber dealer, lithographer, printer, or publisher, or of a clnb, in which meals or spirituous or fermented liquors are sold or furnished, or the business of selling, bartering, or trafficking in fermented, spirituous or other liquors in any premises in respect of which a shop license has been granted, for a sum equal to 50 per cent. of the said assessed value ; but in cities having over 100,000 population, coal dealers shall be assessed for a sum equal to 30 per cent. of the said assessed value.

(f) Every person practicing or carrying on business as a barrister, solicitor, notary public, conveyancer, physician, surgeon, oculist, aurist, medical electrician, dentist, veterinarian, civil or mining or consulting or mechanical or electrical engineer, surveyor architect, and, subject to subsection 5 of this section, every person carrying on a financial or commercial business as agent only, for a sum equal to 50 per cent. of the said assessed value. Provided that where a person belonging to any class mentioned in this clause occupies or uses land partly for the purposes of his business and partly as a residence, 50 per cent. of the assessed value of the land occupied or used by him shall, for the purpose of the business assessment, be taken as and construed to be the full assessed value of the land so occupied or used.

(g) Every person carrying on the business of a retail merchant in cities having a population of over 50,000 for a sum equal to 25 per cent. of the said assessed value ; in other cities and towns having a population of 10,000 or over for a sum equal to 30 per cent of the said assessed value ; and in all other municipalities for a sum equal to 35 per cent. of the said assessed value.

(h) Every person carrying on the business of a photographer, or of a theatre, concert hall, or skating rink, or other place of amusement, or of a boarding stable, or a livery, or the letting of vehicles or other property for hire, or of a restaurant, eating house, or other house of public entertainment, or a hotel in respect of which a tavern license has been granted, or any trade or commercial business not before in this section or in clause (i) specially mentioned for a sum equal to 25 per cent. of the said assessed value.

(i) Every person carrying on the business of a telegraph or telephone company, or of an electric railway, tramway, or street railway, or of the transmission of oil or water, or of steam, heat, gas or electricity for the purposes of light, heat, or power, for a sum equal to 25 per cent. of the assessed value of the land (not being a highway, road, street, lane, or public place or water or private right of way), occupied or used by such person, exclusive of the value of machinery, plant, or appliances erected or placed upon, in, over, under, or affixed to such land.

(2) No person shall be assessed in respect of the same premises under more than one of the clauses of subsection 1, and where any person carries on more than one of the kinds of business mentioned in that subsection on the same premises, he shall be assessed by reference to the assessed value of the whole of the premises under that one of the said clauses in which is included the kind of business which is the chief or preponderating business of those so carried on by him in or upon such premises.

(3) Where the amount of the assessment of any person assessable under this section would, under the foregoing provisions, be less than $250, he shall be assessed for the sum of $250.

(4) Where any person mentioned in subsection 1 occupies or uses land partly for the purpose of his business and partly for the purpose of a residence, he shall be assessed in respect of the part occupied for the purpose of his business only ; but this provision shall not apply to persons assessed under clause (f) of subsection 1.

(5) A financial or commercial business, in subsection 1 mentioned, shall not include a business carried on by operating vessel property of the following description, namely, steamboats, sailing or other vessels, tow barges or tugs ; nor the business of a steam railway ; nor the business of a broker or a financial agent, or of a manufacturer's agent, or other agent or intermediary in the business of the sale of goods who has not the actual custody of the goods, or has the custody of samples only.

(6) No person occupying or using land as a farm, market garden or nursery shall be liable to business assessment in respect of such land.

(7) Except as provided in clause (c) of subsection 1 of section 11 of this Act, every person liable to assessment in respect of a business under subsection 1 shall not be subject to assessment in respect of income derived from such business, nor shall any person be subject to assessment in respect of dividends derived by him from shares in the stock of a corporation carrying on a mercantile or manufacturing business and which corporation is subject to assessment under sub-section 1 ; nor shall the premiums of an insurance company be assessable by any municipality.

(8) Every person assessed for business assessment shall be liable for the payment of the tax thereon, and the same shall not constitute a charge upon the land occupied or used.

Income.

The changes in the law relating to the assessment of income have removed many of the objections to the old system. It is now defined to mean :

8. "'Income' shall mean the annual profit or gain or gratuity (whether ascertained and capable of computation as being wages, salary, or other fixed amount or unascertained as being fees or emoluments, or as being profits from a trade or commercial or financial or other business or calling) directly or indirectly received by a person from any office or employment, or from any profession or calling, or from any trade, manufacture, or business, as the case may be; and shall include the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment ; and also profit or gain from any other source whatever."

The exemptions are :

The income from surplus funds of friendly societies.
The official income of Governors.
The full or half-pay of His Majesty's military or naval officers.
The income of a farmer derived from his farm.
The income from stock in incorporated companies, the income of which is liable to assessment.
The dividends from stock in toll roads.
Rent and other income derived from real estate, except interest on mortgages.

The annual income derived from personal earnings or from any pension, gratuity, or retiring allowance in respect of personal services by any person assessable directly in respect of income under this Act to the extent of $1,000, where such person is resident in a city or town having a population of 10,000 or over, or to the amount of $700, where such person is resident in any other municipality, provided that such person is a householder in the city, town, or other municipality and is assessed as a householder therein, and the annual income, derived from personal earnings or from any pension, gratuity, or retiring allowance in respect of personal services of every person, not being a householder and assessed as such as aforesaid, to the amount of $400.

The exemption referring to personal earnings is new and of the greatest general interest.

Where a man is assessed as a householder, his income from personal earning, etc., is absolutely exempt to the amount of $1,000 if he is the resident of a city of 10,000 inhabitants or over, and in other municipalities to the amount of $700. If, however, he is not a householder and assessed as such, his income derived from personal earnings is exempt to the extent only of $400.

The American Encyclopedia of Law defines the term "householder" as follows :

"A householder is the head or master of a family ; a person who occupies a house, and has charge of and provides for a family therein."

This reduction of exemption in the case of non-householders is practically a tax on bachelors, which some reformers refer to as a most desirable source of revenue. It will also be noticed that no exception is made in the case of female wage earners who may be assessed for income.

Subject to the exemptions above stated, the following persons are to be assessed and taxed in respect of income:

(a) Every person not liable to business assessment.

(b) Every person, although liable to business assessment, shall also be liable in respect of any income not derived from the business in respect of which he is assessable under that section.

(c) Every person liable to business assessment under clause (f) in respect of the income derived by him from his business profession or calling, to the extent to which such income exceeds the amount of such business assessment.

Where such income is not a salary or other fixed amount capable of being estimated for the current year, the income of such person for the purposes of assessment shall be taken to be not less than the amount of his income during the year ending on the 31st day of December then last past.

Every person assessable in respect of income shall be so assessed in the municipality in which he resides, but may be so assessed in such municipality either at his place of residence or at his office or place of business.

The income of a partnership, or of an incorporated

company, if assessable, shall be assessed against the partners at their chief place of business, and against the company at its head office, or if the company has no head office in Ontario, at its chief place of business in the municipality.

Every agent, trustee, or person who collects or receives, or is in any way in possession or control of income for or on behalf of a person who is a resident out of the province, shall be assessed in respect of such income.

Railways.

Every steam railway is required to transmit annually to the municipal clerk a statement showing the real property of the company, which is to be assessed by the assessor as follows :

(a) The roadway or right of way at the actual value thereof according to the average value of land in the locality ; (v) but not including the structures, sub-structures and superstructures, rails, ties, poles, and other property thereon ;

(b) The said vacant land at its value as other vacant lands are assessed under this Act ;

(c) The structures, substructures, superstructures, rails, ties, poles, and other property belonging to or used by the company (not including rolling stock and not including tunnels or bridges in, over, under, or forming part of any highway) upon, in, over, under, or affixed to any highway, street, or road (not being a highway, street, or road merely crossed by the line of the railway) at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights, and franchises, regard being had to all circumstances adversely affecting the value, including the non-user of any such property ; and

(d) The real property not designated in clauses (a), (b), and (c) of this subsection in actual use and occupation by the company, at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights, and franchises.

But the telephone and telegraph plant, poles and wires which are used exclusively in running trains, or for any other purposes of a steam railway and not for commercial purposes, are, as heretofore, to be exempt from municipal assessment and taxation.

A railway company assessed under this section is to be exempt from assessment in any other manner for municipal purposes except for local improvements.

Telephone Companies.

In cities, towns, and police villages telephone companies are to be assessed for 60 per cent. of the gross receipts belonging to the company in the city, town, village or police village, from the business of the company for the year ending the 31st December next preceding the assessment. In cities of over 100,000 such companies are to be assessed for 75 per cent. of gross receipts.

In townships, telephone companies are to be assessed at the rate of $1.35 per mile for one ground circuit (being a single wire for carrying a message) or metallic circuit (being two wires for carrying a message) and in case any line of poles carry more than one circuit of wire, they are to be assessed $7.50 per mile for each additional circuit.

In computing wire mileage, branch or party lines which do not exceed 25 miles in length, are not to be included.

Telegraph Companies.

In cities, towns, villages and police villages, telegraph companies are to be assessed for 50 per cent. of the gross receipts belonging to the company in each city, town, village, and police village. In townships, telegraph companies are to be assessed for a sum equal to $40 for every mile of one wire, and $5.00 per mile for each additional wire.

In computing wire mileage, all branch lines which do not exceed 25 miles in length are not to be included.

Every telephone and telegraph company is to be exempt from assessment in any other manner or on any other property for municipal purposes.

When poles and wires are on a boundary line road between two townships, each township is entitled to one-half the assessed value.

The companies will make returns of gross receipts and wire mileage to the Provincial Secretary, who will forward the necessary information to the municipalities.

Street Railways and Other Companies Using the Highway, Etc.

The definition of land as stated above (section E) includes all structures and fixtures erected or placed upon, in, over, under, or affixed to any highway, road, street, lane, or public place or water, but not the rolling stock of any railway, electric railway, tramway, or street railway. This property, when owned by companies or persons supplying water, heat, light, and power to municipalities and the inhabitants thereof and companies, and persons operating tramways, street railways, and electric railways shall, in a municipality divided into wards, be assessed in the ward in which the head office of such company or person is situate, if such head office is situated in such municipality, but if the head office of such person or company is not in such municipality, then the assessment may be in any ward thereof.

In assessing such property, whether situate or not situate upon a highway, street, road, lane, or other public place, the same shall, when and so long as in actual use, be assessed at its actual cash value as the same would be appraised upon a sale to another company or person possessing similar powers, rights, and franchises in and from the municipality and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting the value of such property, including the non-user of any of the same.

Assessment Returns.

Every person is required to give the information necessary to enable the assessors to properly assess them. Employers of labor may be called upon to make a return showing salaries, etc., paid employees and a form of general return, which any one may be required to file in showing their land and income. There is a heavy penalty for not furnishing particulars when returns are requested.

Non-Residents.

This term is only applicable to townships where unoccupied land is denominated "lands of non-residents," unless the owner thereof resides or has a place of business in the municipality where the land is situate, or gives notice in writing setting forth his full name, place of residence and post office address, to the clerk of the municipality, on or before the 20th day of April in any year, that he owns such land, describing it, and requires his name to be entered on the assessment roll therefor ; which notice may be in the form or effect of Schedule D to this Act ; and the clerk of the municipality shall, on or before the 25th day of April in each year, make up and deliver to the assessor a list of the persons requiring their names to be entered on the roll and of the lands owned by them.

The clerk of the municipality is to keep in a book a record of such notices which are to stand until revoked.

Municipal accounts and statements, when published, should be simple, clear and graphic, so that any citizen can easily understand them.

* * *

It is a foremost plank in almost all municipal reform association platforms that municipal affairs should be entirely separated from Provincial or Dominion politics.

CANADIAN MUNICIPAL INSTITUTIONS.

The annual publication of the University of Toronto Studies in History and Economics, edited by Dr. S. M. Wickett, has been received. It is a valuable addition to the literature of Canadian municipal institutions and includes :

"Municipal History of Manitoba," by Allan C. Ewart, a member of the Manitoba Bar.

"Municipal Government in the North-West Territories," by Dr. Wickett.

"Municipal Institutions in the Province of Quebec," by the Honorable R. Stanley Wier, City Recorder, of Montreal.

The Bibliography of Canadian Municipal Institutions commenced in former numbers is continued.

The municipal institutions of Manitoba are, in general, similar to those of Ontario. There are in the Province 87 townships, 20 towns and villages and 2 cities.

A county council system similar to that in Ontario was tried for three years, but did not prove satisfactory. This was abolished and their functions are now carried on under the direction of The Department of the Attorney-General.

The General Municipal Act is applicable to all municipalities, except the City of Winnipeg, which received a charter in 1902.

The municipal elections are held on the third Tuesday of December. Members of council hold office for one year, except in cities, where the term is two years, one-half of the council retiring annually.

The chief source of municipal revenue is the tax on realty, which must not exceed ten cents per acre or exceed two per cent. upon the assessed value, exclusive of school rates, debenture levies, or Board of Health expenses.

In its supervising capacity the Government is represented by a Municipal Commissioner with a staff of municipal inspectors, who check the work of the municipal auditors, and report any discrepencies to the Commissioner and to the reeve of the municipality within which such are found.

The Government protects the people throughout the country by taking bonds guaranteeing the treasurers of all municipalities and school districts. These bonds are held by the Municipal Commissioner and the Minister of Education respectively in trust for the municipalities and school districts.

In the North-West Territories municipal institutions are in their infancy, and the system of local government such as appears to be best adapted to the development of this "Great Lone Land" with its ever increasing population.

The Quebec system is influenced to some extent by the customs and methods of the Ancient French regime, although modern municipal government is said to date from about the year 1840. The Province is divided into counties and local municipalities. Townships and parishes are organized under a General Municipal Code, and in 1903 a Cities and Towns Act was passed, which, it is thought, will reduce the number of applications for special charters usually granted for their incorporation.

Municipal councils have seven members who hold office for three years. Two retire annually in each of two years and three in the third year. County councils are composed of the mayor or head of the councils of the local municipalities.

The University authorities are doing a good work in the Political Science Department, the influence of which is already noticeable in the municipal and legislative councils of the Province.

A PROVINCIAL GOVERNMENT BOARD.

At the Reform convention held in Toronto in November the following resolution was adopted : "That, in the opinion of this convention, many public interests would be greatly protected by the appointment of a provincial commission having authority to deal with such questions as the bonding powers and capitalization of companies concerned in the operation of public utilities, the application of municipalities for consolidating debenture debts, and by-laws of municipalities purporting to confer monopolistic rights in public utilities, such commission to have power to advise upon the terms of such by-laws and generally upon other matters similar to certain state commissions in the United States or the Local Government Board of the mother country."

This is one of the reforms The Municipal World has been advocating for some time. The January issue of last year contained an extended reference thereto. The work of such a board would be largely advisory and educational and be subject to Legislative revision. It is the most important municipal reform that has been suggested in recent years, and we hope to see it established as a factor in the local government of Ontario.

The nomination sections of The Municipal Act were amended last year by requiring candidates in all cities, towns and villages to file a declaration of property qualification on nomination day or before nine o'clock in the evening of the following day. Any default in filing the declaration by the proper time to have the same effect as a resignation. This has been the law for some time in cities having over 30,000 population, aud it is not surprising that in the first year of its application to all the urban municipalities its provisions should be overlooked. As a result the City of Chatham is said to be without a council. Some other places are similarly situated and numerous elections by acclamation were reported from the same cause. There is no excuse for complications of this kind. If members of councils and their officials would read The World regularly, they would make better representatives and be informed in reference to matters of general interest to their constituents and themselves.

* * *

County councils will meet for organization on the fourth Tuesday, January the 24th, the day preceding the day on which the Provincial elections are to be held. This will be inconvenient to the members who are taking an active part in the campaign. A prompt election of warden and an immediate adjournment to Thursday or the following week will no doubt be considered necessary.

* * *

Popular municipal government is a complex problem. In order to succeed we must put responsibility where we can find it when we look for it, and then not forget to look for it.

* * *

The best municipal insurance is that furnished by our police, fire, building, health and charity departments.

REX v. McDONALD.

Assaulting a Pupil—Conviction of Teacher—Quashing of.

Defendant moved absolute a rule nisi to quash conviction made by a single Justice of the Peace for the County of Glengarry on a trial on which two Justices sat. The defendant, a school teacher, was charged with assaulting a pupil. The defendant's counsel contended that when both Justices were properly sitting then they must concur in a conviction. Prosecutor and convicting magistrate, showed cause. Rule absolute quashing conviction, with costs against prosecutor fixed at $50.00.

An Investor's Criticism of Municipal Securities.

BY A. L. CROSSIN, Secretary The Toronto General Trusts Corporation.

The outstanding indebtedness of the municipalities of the Province of Ontario at the close of the year 1904, nine-tenths of which amount is represented by debenture obligations, will probably be found to exceed $70,000,000. This indebtedness is growing at what may be termed the normal rate of two millions a year. If the stock and bond issues of franchise-holding companies are to be replaced by municipal securities, the rate of increase during the next decade will outstrip all previous records.

The annual interest charge on this large mortgage is probably $3,000,000.

The casual reader may hastily assume that the management of this vast obligation is systematic, scientific, and in accord with the best financial practice. Of the eight hundred municipal corporations of Ontario it is possible that a score or two may be entitled to this compliment. It is certain that the vast majority are not.

Certain well understood qualities should attach to all securities seeking the markets of the world. The power of the issuing corporation to pledge its assets should be readily proved. The debentures should be attractive in form, well printed on good paper. They should be payable at a financial centre. The coupons should be easily detached and promptly paid.

The municipal issues of this province are ear-marked by their defects.

The by-laws authorizing the issues are crudely drawn and often defective. Whoever purchases securities thereunder without the assistance of a solicitor does so at his peril. The clerk of an Ontario township, a decent young farmer, told the writer, in reply to an inquiry respecting the draftsman of a particularly loosely prepared by-law, that he (the clerk) was expected to prepare all by-laws, in addition to his other duties, for the handsome compensation of $100 per year.

The debentures themselves are badly printed on cheap paper and usually hideous in their ugliness. Cheapness and vulgarity are writ all over them. Frequently the paper is so flimsy that the security will not bear handling.

The marvellous variety of taste displayed in the shape, size, color, and type of the security deserves more than a passing notice. It at least displays the versatility of genius of our municipal officers. Unhappily, this prodigality of style defies all attempts of officers of banks and financial institutions to devise a system of filing such securities.

The debentures are often issued in inconvenient amounts, perhaps in very large denominations; the coupons may be payable at out-of-the-way places.

A village in the County of York contains, perhaps, the brightest genius yet uncovered. The coupons on its debentures are in inverted order, so that after the first half-dozen are detached the remainder are entirely separated from the debenture itself.

Typewritten debentures are an evidence of poverty, perforated coupons of exaggerated cleverness.

Investors who have purchased municipal debentures and have paid the inevitable solicitor's fees, and later the bank exchange on the collection of the coupons, perhaps fondly anticipate that the worst is over. Two or three days after depositing the coupons in the bank a messenger walks in with the coupons and the information that funds have not been provided at the place of payment to meet them. In blunter language the municipality has defaulted.

This apparent contempt of financial obligations may be explained. The bonds expressly declare the place of payment. As a matter of convenience, this is usually the office of the bank where the municipality's account is kept. Subsequently, new banking arrangements are made without reference to the outstanding debentures. When these are presented at the old bank payment is refused—perhaps, under a sense of injury, with a grim satisfaction.

In some instances the officials appear to entertain the singular view that the coupons must be presented to the municipality itself for payment, irrespective of the contract contained in the debenture.

A further reason is furnished by the too common practice of treasurers depositing the public funds to the credit of their personal account. This confusion of *meum* and *tuum* sometimes results in an insufficient credit at the bank when the municipality's obligations mature.

The contrast between municipal securities and those of railway, industrial, and other companies is a striking one. The latter seek, by every means in their power, to popularize their bond issues. They study the convenience of investors. The assets offered as a pledge are mortgaged to trustees whose signature on the bonds attests their regularity. An independent counsel furnishes an opinion that the issue is binding on the company. The issue is listed on the Stock Exchange.

When these securities come into the hands of the investor they are found to be handsomely lithographed on the best linen paper in a form which lends itself to the filing system in current use, while the coupons are conveniently arranged for clipping. The place of payment is invariably a prominent bank or trust company in the leading financial centre of the country.

Municipalities in Ontario rely upon the acknowledged superiority of the security offered to obtain a market for their debentures. A little attention to the other factors in fixing the price of their securities, the window dressing if you will, would so popularize this form of security as to effect a reduction in the rate of interest commonly paid. Should this reduction amount to only one-quarter of one per cent. per annum, the saving would be $175,000 per year. The fact that the banks hold scores of millions of dollars on deposit at low rates of interest would indicate that a field for the planting of municipal debentures, is yet unworked.

It is not the purpose of this article to suggest the means of securing the reforms demanded. It will probably be found in the surrender by the municipalities of some of their power to a central bureau after the model of the Local Government Board of Great Britain. Many students of political science in Canada support the establishment of such a department on grounds of general efficiency.

Municipal government is becoming too complex for the system which served the province well in the pioneer days. New conditions demand new methods. Eight hundred separate councils are, independently of each other, trying to solve such problems as the purchase of lighting plants, the construction of water-works, of roadways, the laying of sewers, the laying out of parks and boulevards, the management of public libraries, even the conduct of a fire insurance office. To secure the best advice and assistance in dealing with these intricate matters some form of co-operation would appear so natural as to only require proposal to secure its adoption.

The incidental centralization of a certain portion of the power now enjoyed by the local municipalities is surely not too great a price to pay for the advantages to be gained.

Pamph. Pol. Sci. Toronto Gov.

CIVIC CHARTERS.

The Question of a Charter for Toronto and of Civic Charters in General

BY S. MORLEY WICKETT, B.A., Ph. D.

Lecturer in Political Science, Toronto University.

Dissatisfied with the present Municipal Act, the city council of Toronto has moved for a special charter. The step at once raises the great big question, whether we are to continue to govern our cities under general municipal Acts, as we have been doing in Ontario for over half a century, or under a series of special Acts affecting individual cities. As municipal students are aware, the question has been given much consideration of late years in the United States. And since, doubtless, Toronto's decision will influence the policy of other cities throughout the Dominion, it deserves our particular attention, not as a matter of theoretic interest—which is not supposed to appeal to the "practical man"—but as one of the great problems of Canada's municipal government.

The situation in this country is somewhat complex. In Ontario since 1849 all municipalities have been under one general Act or charter. In other Provinces general Acts have since been passed, although most of their larger cities and towns are still under earlier special municipal Acts, for instance, Quebec and Montreal, Halifax, Winnipeg, Vancouver and Victoria. The situation is much the same in the Northwest with the three little "cities" of the Territories, Calgary, Regina and Moosejaw; but the Acts incorporating these cities refer back to the general municipal ordinance for many of their provisions. One great reason why so many special Acts have been allowed to continue in force in all the Provinces, except Ontario, appears to be the small number of their cities. On the whole, speaking of Canada generally, Ontario alone has a general municipal Act; the other Provinces have general Acts which apply only to municipalities not specially incorporated.

In Ontario, however, there is this important exception: the cities are classified according to population, cities of 100,000 and over, for example, forming the first class, etc., and legislation may be shaped to hit any given class. While this practice has the merit of preserving the spirit of generality of the Act, it is a restriction and is a policy that needs to be carefully safeguarded because too many special classes would have at once the effect of changing what in appearance is general into the most pointed special legislation. The municipal history of the State of Ohio furnishes a most remarkable illustration.

Legislative Supervision Unsatisfactory.

Now, if a general Act makes minute provision for municipal government, as is the practice in Canada, it is apt to become involved, particularly if, as is usual, it is frequently amended. Perhaps the first great reason why Toronto is seeking to break away from the general municipal Act is because of the confusion in which the Act now stands. Although legal men consider it well-framed, in some of its parts it has rendered the situation worse by vague if not contradictory clauses resulting at times in costly lawsuits, interruption to municipal business, and uncollected taxes. Examples are the clauses relating to roads and local improvement charges, as also in The Assessment Act the clause leading up to the famous "Scrap Iron" dispute.

No one will deny the inevitable necessity of amending any municipal law, particularly when the impossible is attempted of trying to regulate everything through the Legislature instead of by a local government board. In this respect a charter offers no advantage over a general Act, for the former is also amended from year to year, as is clear from Montreal's experience even with her very admirable charter. A new charter is in fact nothing more than a revised and consolidated municipal Act. As regards the Ontario Municipal Act, or indeed any general municipal Act which has been repeatedly amended and re-amended, all one can say is that it ought to be revised and consolidated, not that new particular Acts should be framed to suit the detailed wants of individual municipalities. If Toronto's application for a charter does nothing else than insure an early thorough revision of the Ontario Act, it will have performed a valuable service. The Act has been revised but once, and that only in part, in 1897, though it has been consolidated several times, most recently in 1903.

We see an instance of how changing conditions call for fresh legislation in the effect of the rapid increase in the incorporation of private businesses on the number of property voters. Under the present law, the principals of a newly-incorporared business are at once disenfranchised as property owners, and can vote only on income, or other non-corporate property that they may hold. Yet it is to the class of property owners, as the backbone of the community, that money votes and other important matters are now referred. The decisions are, therefore, coming to rest more and more with a relatively unimportant class of small property owners, instead of with the most important. This is clearly not the intention of The Municipal Act.

A General Act Preferable.

But let us not leap from the pan into the fire. While a general Act is altered as a rule more frequently than a special Act, yet it has particular virtues. Since its many provisions affect all municipalities or all those of a wide class, they are an object of general interest to all the cities and towns concerned. Hence each proposal to amend them attracts attention on every side; what affects one place to-day may concern another to-morrow, with the result that there is less likelihood of "hole-in-the-corner" legislation.

For the same reason, a general Act tends to strengthen community of municipal interest. The Union of Canadian Municipalities is itself due to the common and rapidly increasing danger of corporation influence over municipal legislation. No one would dispute for a moment that this community of municipal interest is a bulwark well worth protecting during these times of corporation growth. As it is, the jealousy between rural and civic municipalities is enough in evidence without its being intensified by disuniting the cities. One need but recall Montreal's expensive enlargement of Bousecours Market, which was carried out practically at the dictation of the rural members of the Provincial Legislature.

A general Act also impedes log-rolling in the Legislature. With special legislation, log-rolling between municipal representatives has been notoriously frequent in the United States. "This bill does not concern your city," remarks one legislator of a chartered town to another. "You support my bill and I'll support yours." Indeed, it was to check this log-rolling and railroading of

bills as the causes of secret and corrupt legislation that so many constitutional and other prohibitions have been issued in the American Union. In 1899 the National Municipal League passed a resolution, radical enough for any municipal reformer, that every bill affecting any special municipality shall require a two-thirds majority.

In the course of time a general Act also becomes a treasure-house of judicial decisions in that its clauses acquire great legal precision through contests in the courts. The results are not so satisfactory with special Acts, which often vary in detail from city to city.

Similarly the cities of a Province or State which have the same legal status have an advantage when they come into the financial markets of the world with their debentures, as they will be doing in this country more and more. Financiers are relieved of making special studies of the powers and general status of remote municipalities, with the result that the bonds of these municipalities stand a greater chance of favorable reception than they would otherwise.

For these various reasons municipal students in Europe and America are agreed on the advisability of general, instead of special, Acts. Legislation in Great Britain, Belgium, Prussia, France and Italy, has decided in favor of general Acts, while in the United States over one-half of the State constitutions expressly prohibit special municipal legislation. In fact, the general practice of Western countries is becoming more and more to permit special Acts and charters only under unusual circumstances, for example, to the great metropolitan cities.

Thus in so far as Toronto seeks a remedy by abandoning the general Act she is doomed to disappointment. Her example, moreover, would constitute a dangerous precedent for Ontario, and a confirmation of the present isolatsd status of cities in other Canadian Provinces. Ottawa, for example, is avowedly awaiting the outcome of Toronto's application.

Wider Powers.

This discussion of civic charters brings up as a second leading question the powers given by the Legislature to a municipality. Toronto complains that her powers are too restricted for ordinary municipal business; that she is forced to keep appealing yearly to the Legislature for what are really special Acts, which are costly in time and effort, not only to the city, but also to the Legislature, and often aggravating to the civic councillors and officials.

There are, roughly speaking, three types of municipalities according to the form in which powers are granted them.

First there is the continental type, with a general grant of powers. For example, the French code of 1884, art. 61, reads: "The municipal council regulates by its deliberations the affairs of the commune." This general grant is, of course, not absolute. Thus the proceedings of a council bearing upon a subject foreign to its powers are declared void, as are those in violation of a law or regulation of the public administration, while certain proceedings, such as the sale of municipal property, contracts, the civic budget and loans, require the approbation of a superior authority. In these respects the Prussian and Belgian municipal Acts are of similar type.

Another class of municipality exhibits a combination of general grant and enumerated powers. We may call this loosely the English system, although in England there are many exceptions. For example, the English municipal code reads: "The council may from time to time make such by-laws as to them seem meet for the good rule and government of the borough," etc. Two-thirds of the council must be present; a by-law cannot come into force until forty days after being passed, and is subject to disallowance or postponement by the Secretary of State.

A third class has its powers enumerated in great detail. This is the American, in which is included the Canadian system. Among Canadian cities, Montreal is, however, to be regarded as an exception, resembling rather the English than the American type.

To adandon in a measure the system of enumerated powers for that of a grant in general terms is urged in the United States. The ground taken is that once powers are given in detail explanation and amendments are constantly required, as we in Canada know; and this constant interference of the Legislature in purely local affairs depresses and confuses the whole municipal administration. On the other hand the Legislature could scarcely give the municipal councils a free hand to make their own mistakes. Public opinion would certainly hold that some central supervision is necessary.

The real evil of the present conditions is that the Legislature is driven to control everything by statute rather than by administrative measures. A great part of our municipal legislation is certainly of an administrative character, e.g., that giving assent to loans, or public works, or confirming something done. All of this could be performed much more expeditiously and with greater safety by an expert board, as is the case in England, and in effect on the Continent. It scarcely needs to be emphasized also that the Provincial Legislature is not always an efficient adviser. For example, the Legislature does not seriously check the common municipal indiscretion in this country to extend municipal areas unduly. An investigation of city and town areas would probably discover here an important explanation of the permanent high level or local rates in many municipalities.

The argument for more general municipal powers in America is, briefly, somewhat as follows: The municipality is with us treated like an ordinary corporation and has, accordingly, only such powers as are expressly granted to it, whereas it is not an ordinary corporation, but something more. Thus, as a business corporation, it acts as the agent for the Legislature, e.g., in public health, education, etc.; but as a political body it also represents its municipal constituents, and within these political, or purely municipal limits, it should be free and sovereign.

The courts have never been able to set any precise limit to municipal authority. It appears that the division of power between the Legislature and the municipality is mainly a question of expediency, rather than of general principles. But there can be no doubt that if in some way we can avoid the excessive amount of special legislation, we shall have taken a step forward.

It is interesting to note that Edmonton, it the Northwest Territories, is now having drafted its act of incorporation as a city, and the draft is said to include a grant in general terms of municipal powers.

The Municipal League of the United States, in opposing enumerated powers and supporting a fairly general grant, makes its report read in part as follows: "The history of municipal government shows that the constant appeals to the State Legislature for additional powers has been one of the most unfortunate influences in our public life." If the present conditions of municipal legislation continue in Canada, in time we may have to make a similar statement.

The conclusion pointed to, then, is that in this country we should also attempt to improve municipal conditions and relieve the situation, of which Toronto complains, by granting municipal powers less in detail and more in general terms.

A Local Government Board.

This leads to the third and last point raised by the question of civic charters, viz: If we abandon our present method of detailed powers and constant Legislative interference and regulation, what controlling body shall we place over the municipalities? There is but one answer, as British and American municipal students are agreed; wider municipal powers and supervision by a Local Government Board go hand in hand. Suppose for a moment that such a Board were appointed in Ontario, consisting of an expert financier as auditor and financial inspector, a medical health officer, and a municipal engineer, its disinterested professional supervision and expert advice could not but be a great boon to most, if not all, municipalities. In matters of public works its advice would be most valuable, and would become more so as its experience grew; and in so far as its regulations and decisions took the place of special statutes it would lighten the work of the Legislature and facilitate intelligent municipal control as well. Mr. K. W. McKay, of the recent Ontario Commission and editor of THE MUNICIPAL WORLD, develops this point in his essay in the University of Toronto's municipal studies of last year. Nothing can be more anomalous, for example, than the Ontario practice of inserting clauses in The Municipal Act providing for the validity of a particular loan on the part of an unmentioned, but readily identified, town or city.

England established her Local Government Board in 1871, and has found it a most helpful creation. Municipal reformers in the United States are trying to copy it. The English Board is the outcome of a consolidation of the Poor Law and Public Health Boards, and is an important professional body appointed by the Cabinet.

Conclusion.

Taking a general review of the whole situation, we can understand why Toronto is restive under present restrictions. One might hope that her request for a civic charter would mean:

1st. Not that the sound policy of a general Municipal Act should be abandoned, but that The Ontario Municipal Act should at once be thoroughly revised and amended.

2nd. That as has proved of advantage elsewhere, a wider grant should replace the present policy of specifying municipal powers in detail.

3rd. That, as has proved beneficial in England, and as is being urged in the United States, a Local Government Board should be appointed.

If these are valid conclusions and municipal history, and the conclusions of municipal students seem to confirm them, the other provinces of the Dominion which have specially incorporated cities and towns should eventually bring all their municipalities under a general Act. The future importance of a definite, uniform policy in this regard, embracing the whole of Canada, can hardly be estimated.

PERMANENT BRIDGES FOR GOOD ROADS.

Ontario's Examples.

A good-natured and commendable spirit of rivalry may be noticed as now existing between various townships and counties in Ontario in the matter of good roads and improved culverts and bridges.

The building of new bridges and the renovating of old ones on a permanent basis is recognized as a necessary adjunct to improved roads. The "pile bent" and the moss-grown king-post may appeal to the eye of the peripatetic man of the easel, but they have served their day. Among the Ontario civil engineers who have been most prominent in the adoption of steel bridges and concrete floors, in municipal work, are Messrs. James A. Bell, City Engineer, St. Thomas, and James McDougall, York County Engineer, Toronto. Mr. Bell early identified himself with concrete and its development as a reinforced material. A cut of the fine Middlesex bridge, erected by Mr. Bell, which is the largest one in Canada, floored with concrete and expanded metal, appears elsewhere.

Laying these floors requires no knowledge or skill, which the average farmer is not called upon to exercise in fixing up his barn. The first requisite is the temporary rough wood flooring. Scantlings, spaced from two to three feet apart, are blocked up from the lower flange of the steel I-beams until their upper edge is one inch below the top flange of the steel work. Sheeting is laid on these scantlings and furnishes the level form on which the concrete is spread. The sheets of expanded metal are laid down on this centering and a thin layer of concrete, from ¾ to 1 inch thick, is spread evenly over a section. After the expanded metal has been wholly pulled up through this thin layer, the additional concrete is placed and pounded to the proper thickness, generally 5 inches in the centre and 4 at the sides. When the concrete is thoroughly set, the scantlings are knocked away and the sheeting stripped from below, and the concrete is left with a smooth lower face, the steel reinforcement entirely being hidden from view.

To quote Engineer McDougall: "For permanent work, concrete should be the supporting material, reinforced with steel net-work. Expanded metal of 3-inch mesh and 10-guage heing the best and handiest material on the market for this purpose. If the stone concrete be left rough as it comes from the layer's straight-edge, and then grooved to give sure footing for horses, it affords a cheap construction. To put the life of such a bridge deck at, say only twenty years, the cost would be something under 1⅓ cents per square foot per annum whereas, a wood floor would be at least 2⅓ cents. The plank floor would require renewal practically every four years. I have used various other surfacing on concrete floors in my county practice. Gravel, from 8 inches to 10 inches thick, to form the crown, is very satisfactory. At Aurora the wearing face is broken stone of the same thickness.

"Ordinary paving brick makes a most suitable topping, especially for heavy traffic. The plan adopted at Thornhill on Yonge street, was to lay over the concrete and expanded metal flooring a thin layer of dry, thoroughly mixed sand and cement, proportions 3 to 1. The brick was well watered and grouted in, so that the tamping down allowed the dry mixture to set and gave an easy means of bringing the brick to its true line. Another ideal surfacing is tar macadam, I am of opinion that all our bridges should in the future be of steel and built strong enough in the first instance to carry any class of deck that may be called for, as it will prove an economy in the end."

Another feature of the improved system of things is the permanent culvert. A common type is of this circular or elliptical concrete reinforced with heavy expanded metal, but the ordinary box culvert of concrete, with flat or slightly curved invert, supporting vertical sides and roofed with a flat slab in which expanded metal is imbedded, will always find favor from the simplicity of the temporary wood forms needed, and the ease of construction.

Mr. W. W. Scott, of Moorefield, has been appointed clerk of the township of Maryborough, to succeed Mr. Edward Dynes, who recently resigned, owing to ill health. Mr. Dynes filled the office for twenty-four years with credit to himself and advantage to the municipality.

Engineering Department

A. W. CAMPBELL, O. L. S., C. E., M. C. S. C. E.

TOWN STREETS.

For residential streets, particularly in towns and smaller cities, broken stone roadways, with concrete curb and gutter are very suitable. It is one of the good qualities of macadam roadways that, with modern road-making implements, they can be constructed in a perfect manner, and afterwards kept in good repair by very simple and comparatively inexpensive means. A steam road roller of about 12 tons weight is indispensable both in the construction of these streets and for their repair.

For a business street, vitrified brick or asphalt block laid on concrete are both very satisfactory, but as a rule are too expensive for residential streets, and in addition they are noisy. Asphalt block is somewhat preferable to vitrified brick in the latter respect. While these two pavements are preferable to macadam for a business street, in that they are cleaner and have a more finished appearance, yet there are towns which have macadam on the business sections, and by careful attention it is found very satisfactory.

Sheet asphalt is the only other pavement which would be considered desirable, but this is expensive to construct ; and for repair, requires an elaborate plant and expert workmen. It is only suitable for the cities where a considerable extent of the pavement can be laid.

Where there is heavy and constant teaming, the macadam should be laid in a correspondingly strong and durable manner ; or in case of especially heavy traffic, vitrified brick may in the end be more economical, and would be satisfactory where noisy traffic would not be objectionable.

It is very desirable that a general system of street grades be planned by the town engineer, in order that street intersections may unite properly, and so that, where considerable cuts and fills are necessary, future buildings placed on the street, may be erected with this in view. Sewers should, if possible, he laid before a street is paved, and as far as possible, private sewer connections, water and gas pipes should be laid to the lot lines, so that the street will not immediately afterwards be torn up in spots.'

TOWN ENGINEERS.

Practically all the cities in the Province have city engineers engaged at a salary of from $1,000 per annum up. Except in the largest cities, these engineers have a private practice in addition to their city work. Their duties are mainly to design and supervise municipal work, and they are usually assisted by a foreman, or foremen, for day work, and an inspector, or inspectors, in case of contract work. Certain towns—Berlin, Peterborough, Brockville, Cornwall, Midland, Owen Sound, Smith's Falls—follow practically the same plan, although in a few cases there is a street commissioner engaged permanently, while the engineer is only employed as occasion requires.

Numerous towns have a street superintendent only, who should be a man of good practical judgment, with some business and mechanical ability, and able to handle men. Among the towns having street superintendents in this way are : Barrie, Carleton Place, Collingwood, Dundas, Galt, Ingersoll, North Bay, Orillia, Paris, Renfrew, St. Marys and Welland.

A good plan for towns desiring such an officer is to advertise for a superintendent or engineer, stating the salary the town is willing to pay. A fair salary for the town work might induce a good municipal engineer to locate in the town to superintend municipal improvements and carry on a local practice. A private practice of a reasonable nature would not interfere with his municipal duties.

It is strongly to be recommended that towns engage a civil engineer, rather than a street superintendent not fully qualified for the work. The average street superintendent is unable to fix grades for street pavements, sewers, sidewalks, etc., and is not sufficiently posted in technical details. The usual experience with a man not fully qualified is that, while he may get along for a certain period with apparently satisfactory results, at the end of ten years there is apt to be a good deal of bad work to do over again.

An engineer should be retained on salary, rather than by fees or commission on the cost of the work. Where an engineer is retained by salary he can be held responsible for the oversight of all details of waterworks, sewers, street improvement, etc., both in construction and repair. An engineer, although appointed by by-law, but paid a percentage of the cost of the work, is only engaged to design and direct occasional works, as required by the council. In the latter case, the responsibility of the engineer is not sufficiently fixed, nor does it extend, as it should, to the maintenance of all municipal works. An engineer retained by commission only, and employed as occasion may seem to require, is not sufficiently in touch with the work at all times to obtain the best results. It is also an important part of an engineer's services to prepare and preserve plans of municipal works for future reference, but except in the case of a permanent, salaried official, having full charge of all work at all times, this is not likely to be done. While the salary of one year may be less than the total commissions would have amounted to, yet after a term of years, the cost will be about the same in either case.

SNOW ROADS.

Snow roads are a matter of varying significance in different portions of Ontario. The most southerly of the townships of the Province, those along Lake Erie, have not, as a rule, sufficient snow to provide for good winter traffic, and with them, short periods of good sleighing are alternated with slush or bare roads. Proceeding northerly, the tendency to heavy and continued snow-fall increases, and throughout the greater portion of the Province the difficulty of keeping snow roads open in winter is felt. Snow-fall and snow-drifts, however, are not wholly a matter of latitude, and vary in different localities, and from year to year. Last winter was one of exceptional severity in this respect.

The roads most subject to this obstruction are those running in a northerly and southerly direction, this being at an angle with the direction of the prevailing winds, which are from the west and north-west. While all roads are more or less liable to obstruction, those running east and west are not so frequently blocked by snow-drifts.

Snow-drifts occur in an open country, where the snow is swept from a large area, and deposited at sheltered points, or where the current of the wind is broken. Drifting is practically unknown in a timbered country, and roads protected by woodland are never blocked. The severe drifting of roads is one of the results of the indiscriminate manner in which many parts of the Province have been stripped of the original forest.

There are two methods of preventing snow-drifts on roads. One is to interpose an obstacle, neither through nor over which the wind can carry the snow. This method is commonly adopted by railways at deep cuts where board fences are built, about eight feet in height. By this means the snow is deposited, and the drift occurs on the side of the fence away from the railway. Without such an obstruction the wind-swept snow would subside into the cut, where it would be sheltered from the wind. A similar purpose can be secured by planting a close hedge of cedar, spruce or other suitable evergreen, parallel to the road. This is an effective means of preventing the roads from becoming blocked.

The other method of preventing drifts is to remove all obstacles, so that there is no hindrance to the sweeping snow. A rail or open board fence permits the snow to pass through and over it, but the force of the wind being checked by the fence, the snow subsides in the roadway. If, instead of rail and board fences, wire fences are used along the highway, there is no obstruction to the wind, and the snow is swept along with little more occasion to drift than in the centre of an open field.

The objection has been made to the latter method of preventing drifts, that the snow is caught in the sleigh tracks, which are continually being packed down by traffic. Where this goes on for some time the centre is gradually raised above the sides of the roads until it reached an inconvenient height for sleighs to turn out and pass one another. This is overcome, however, by making new tracks along each side when the height of the first track indicates the necessity. Or the hardened top of the road can be loosened with a disc harrow and thrown out with a snow-plow.

To cut out drifts and make passable roads that have been banked with snow is a matter of considerable expense. Numerous townships report that, in doing this work last year, nearly all of their statute labor was exhausted in doing this winter work. In some cases, however, residents realize the necessity of good summer roads, realize that roads both in winter and summer are for their own benefit, and do the necessary work on snow roads free of charge.

Snow plows of considerable merit are manufactured, and can be used to advantage. The objection is made to them that the track, cut out, very quickly drifts full of snow—yet the same is true of roads shovelled out by hand. Plows have the advantage that they do the work much more cheaply than can hand labor. Rollers have been used to press down the snow. Some townships report the use of road graders placed on a sleigh, in opening their snow roads. And, as previously pointed out, a disc harrow is recommended by some, in cutting down roads which have gradually raised through the filling of the sleigh tracks.

Prevention, however, is undoubtedly better than cure. The Township of Sarawak, the County of Wellington, and others, follows the policy of railways in building high, close-board fences at cuts and other points where drifts occur. But the more universal cure is the wire fence. With rare exception, they are regarded as wholly beneficial in removing the main difficulty. Many townships grant a bonus for the erection of wire fences. It is considered that the bonus is a matter of economy, as the wire fences do away with the cost of shovelling out the drifts, while the injury to the roads in spring is very much lessened. On the other hand, in some localities, it is urged that property owners will not re-build their old fences until wholly decayed, and that they will then use wire, as it is the most suitable—in fact, the only material available.

The damage to macadam and gravel roads from snow drifts is very often considerable. When the road is drifted the surface becomes irregular, causing a series of embankments and pitch-holes. This large quantity of snow remains on the road late in the spring, thawing off gradually. The shallow places melt first, leaving the road in patches or pockets, unprotected by snow. The melting of the snow from the remaining drifts keeps these places soft and saturated, and a few days of traffic under these conditions, breaks up the service badly, making a series of holes corresponding to the pitch-holes of the snow. Roads broken up in this way are, in the few weeks of spring, injured more than during all the rest of the year. Where wire fences are used, or drifts otherwise prevented, the snow is of a uniform depth and leaves uniformly and more quickly, making a better road in winter and permitting much less injury to the road while the snow is disappearing in the spring.

The following schedule shows a number of the townships granting a bonus for wire fences and the amount of bonus :

Township.	Bonus.
Arthur	20c. per rod
Bromley	10c. per rod
Blandford	10c. to 25c. per rod
Brooke	10c. to 15c. per rod
Barton	25c. where it can be shown that snow frequently blocks road
Blenheim	15c. to 25c. per rod
Crosby, South	15c. per rod where road is liable to drifts
Cartwright	15c. per rod
Collingwood	Township pays for wire
Clarke	10c., 12c. and 15c. per rod
Carden	15c. per rod
Colborne	15c. to 25c. per rod where snow drifts badly
Caledon	25c. per rod
Dumfries, North	15c. per rod
Delamere	10c. per rod
Douro	One-half of cost
Elizabethtown	12½c. per rod
Edwardsburg	10c. per rod
Eastnor	7c., 10c. and 12c. per rod
Flos	10c. per rod
Fredericksburg, N.	10c. per rod
Finch	Township pays for wire
Grey	10c. per rod
Gwillimbury, N.	15c. on roads approved by council
Gloucester	10c. per rod
Gower, South	10c. per rod
Hawkesbury, W.	25c. per rod
Hastings County	County pays 35c. on county roads
Horton	$1.00 a rod
Innisfel	15c. per rod
Keppel	10c. on roads 4 rods wide, 20c. on roads 3 rods wide
Lanark	25c. per rod
Luther, E.	30c. per rod
Maryboro	20c. per rod
Minto	25c. per rod
Mono	30c. where approved by council
Mariposa	20c. per rod
Niagara	One-third of cost
Otonabee	25c. per rod on west side of roads subject to drifts
Oxford (Rideau)	10c. per rod
Somerville	35c. per rod
Sarawak	20c. per rod on drifting parts only
St. Joseph	Stopped bonus as unsatisfactory
Tay	15c. per rod
Whitby, E	25c. per rod
Zorra, E.	10c. per rod on west and north sides of road

OILED ROADS IN CALIFORNIA.

That oiled roads as used in California would be applicable to Canadian conditions is not to be expected. They are principally of value in localities where the roads become dusty through long, hot, dry summers, but where, in addition, water can be kept out of the foundations in winter so that the surface will remain firm. The latter requirement is almost unknown in the Canadian climate where roads are exposed to alternate rain, snow, frost and slush, and where the "breaking up" conditions of spring are so unfavorable. There is reason to believe, however, that oil may be of value in connection with well gravelled and macadamized roads as a means of subduing dust, and preserving a well-bonded surface in damp weather. It is certain, however, that roads to be benefited by this treatment must be so constructed that the road surface will not be broken through during the wet seasons of the year. The manner of using oil on roads in California is described in *Country Life in America* for November :

Within the last five years the California roadmakers have made rapid advancement from the first period, when oil was used simply to lay the dust, to a second and far more momentous one in which permanent roads are being constructed with it. Experience proved a valuable teacher and, indeed, the only available one, and even within this short time the building of oiled roads has been reduced to a science—imperfect, perhaps, but none the less sound fundamentally. Certain principles have been deduced as to the preparation of the road-bed, the method and time of application of the oil, and the kind of oil best adapted for road-making.

California has been the pioneer in this movement for two reasons—her desperate need of getting rid of the summer dust, and her extensive production of the petroleum best suited to the purpose. Texas also has experimented along this line, but less successfully. Other States where oil is produced have used it on road-beds to a small extent, as temporary relief from dust, but not as a road-maker, for crude oil having an asphaltum base is necessary to insure a firm pavement, and California furnishes the best there is for this purpose. Texas oil has a much smaller percentage of asphaltum, while Colorado and Eastern oil have a paraffin base. These paraffin crude oils at 26°B. specific gravity have not been used persistently enough to show any permanent results, although it is considered possible by some that, if enough were applied, it might unite with itself sufficient oxygen and nitrogen from the atmosphere to form a small amount of asphaltum. Perhaps it would pay to add asphaltum to the Eastern oils having a paraffin base, so that oiled roads may be adopted in the East.

Crude petroleum used for road-making has two important elements—asphaltum, a solid, brittle substance, and petrolene, a thick, black, viscous liquid, which remains stable under all atmospheric conditions. These qualities, combined with the dust-absorbents of the other components of petroleum, are the factors that have made oil-paved roads a success.

An arduous preparation is necessary before putting on the oil, for the road-bed must be worked up by plowing, harrowing, rolling and grading, until there is a layer of finely pulverized soil ten or twelve inches deep over the whole surface. This is to insure an even settling of the road-bed to guard against any unevenness in the oil crust, which would mean a rapid wearing-out of the road. When the ground has become hard and thoroughly dry, the oil is put on. Sometimes the crude petroleum is used, and sometimes asphalt residuums. An oil with a specific gravity of 12°B. to 14°B. is used most commonly, and it is heated to from 175 to 250 and even 300°F. The hotter the better, for then it spreads more readily, and is more quickly and more effectively absorbed by the soil. There is some difficulty attendant upon heating the oil, as heating-plants are expensive, and the hot oil cannot be hauled to advantage for more than eight or ten miles. There are those who advocate applications of cold oil on account of the expense of heating it, but thus far only hot oil is in use.

Prices of crude oil in California range all the way from sixty-five cents to a dollar per barrel, and, of course, the cost is greater with the increase of the shipping distance. But even where the cost of transportation is considerable, it is estimated by experts that the oiled road is less expensive than stone covering. The amount of oil applied varies from one hundred and twenty to three hundred and more barrels for an eighteen-foot surface per mile, this being an ordinary width for the oiled strip through the middle of the road. In California the cost of application is estimated at fifteen dollars per mile. Often a second coating is given within a few weeks of the first, to follow up the advantage of the first. Coarse sand or gravel is spread over the oil to aid in absorption and, incidentally, to protect passing vehicles and their occupants from the oil. The oiled road costs about one and a-half cents per square foot, while asphaltum costs fifteen cents, and a powdered granite road is nearly twice as expensive as the oil, when there is the same relative situation as to material. It wears well under the heaviest traffic, and in times of flood it remains firm. Sandy roads become indurated and resilient with oil, and the resulting dark-brownish tone is restful to the eye, being free from any glare. There is absolutely no dust except what may have blown on after the completed process.

Rubber tires are not injured by the oiled road, as was claimed at first. The surface does not soften like asphalt pavement, and is not so easily cut up by wagon tires. Although the oily sand, when the roads are in process of making, stains anything it rests upon, when it has become thoroughly packed and welded it loses its staining properties. Indeed, it is said that oiled roads are the most important discovery in road-making for dusty countries that has ever been made. A firm foundation and perfect dryness, while the oil is being put on and is permeating the surface, are of prime importance in making oiled roads. Where these conditions can be met, a beautiful road may be constructed, differing but little in appearance from an asphaltum road, and having all its advantages without any of its drawbacks. At present there are about one thousand miles of these roads in California.

STEAM ROLLERS.

Steam road rollers are among the most modern of road-making implements, but their use is reaching considerable proportions in Ontario, there being about thirty owned by different towns and cities. In England they are commonly used on the country roads. The following extract from a paper by R. J. Thomas, C.E., County Engineer of Buckinghamshire, is of interest in this connection :

The consolidation of road metalling by steam rollers has become so general on main roads and district highways throughout the country, that to discuss its credentials is unnecessary ; but the author has satisfied himself that a 10-ton roller having driving wheels 16 inches wide and of large diameter, and front wheels 22 inches, distributes its weight to such an extent as to make the pressure per square inch insufficient to consolidate effectually a coating more than one stone thick at a single operation, and that to attempt to roll in a bed 6 or 8 inches thick not only necessitates the use of unreasonable quantities

of binding, but also reduces the effective pressure of the roller very considerably, as it is self-evident that the greater the depth of a coating of stone the less the pressure on the old surface with which the new material has to be amalgamated. If spread for a finished thickness of one stone, well raked over and packed into position, rolled dry until the entire surface has been compressed evenly and does not yield appreciably under the pressure of driving-wheels, watered copiously, and rolled until liquid mud from the old surface exudes and can be swept into the surface interstices until they can take no more, a little clean sharp binding of road grit, not exceeding 5 or at most 10 per cent., being added where the foundation is too hard to afford this, there should not be much to complain of in its finished state.

There is a tendency in rolling to use too much binding material, foreign and local, it being probably overlooked that, however carefully screened the granite may be, there is always a certain proportion of smaller stone in every consignment, varying from 10 to 20 per cent.; that ample watering and rolling will produce a certain quantity of binding material from the old surface, and, what is most important, that during dry rolling and the resultant pressing and squeezing together of the stones as they find their natural positions, there is a considerable quantity of fine material produced from the stone itself, than which nothing better could be obtained for the purpose of binding. As already instanced by the author, stone which before rolling included 87.3 per cent., exceeding ⅞-inch gauge, only contained 66.6 immediately after rolling; the difference going to swell the smaller sizes and providing 6 per cent. of fine dust for binding. This agglomeration will make a firm, solid, smooth surface, yielding a minimum of mud and dust.

It was with considerable surprise that the author heard an engineer, eminent in other branches of the profession, express the opinion at a meeting considering a paper on roads, tnat steam rollers were not satisfactory because their driving-wheels always left indentations in the finished work. To those accustomed to the use of these machines it is obvious that the driving-wheels almost entirely complete and finish off all rolling, the front wheels doing little more than "keeping their ends up" and steering, and that the ordinary driver knows that until his road has been consolidated by the driving-wheels so that they make no impression upon its surface his work is not satisfactorily completed, and requires more rolling if he wishes to continue in the same employ.

BROKEN STONE ROADS IN THE TOWNSHIPS.

Townships which have not a supply of good gravel are at a disadvantage in the matter of road-making. Gravel, if of a good quality, and within easy hauling distance, makes a cheap road surface, and one well suited to the ordinary farm traffic. On the other hand, townships without gravel, but having a plentiful supply of quarry or field stone, will save much by the greater durability of broken stone, while modern road-making machinery now obtainable greatly reduces the first cost. Not only is road-making machinery a matter of economy, but to make broken stone roads in even a satisfactory manner, a good outfit of machinery is a necessity. To try to make roads without proper implements is like going back to the cradle and flail, instead of using a self-binder and threshing machine.

Commencing with a common earth road, one which has had little grading and has not been previously surfaced with gravel or stone, the various steps in making a broken stone road are, in general, as follows:

The earth roadway should first be well graded and crowned, and the side drains graded to free outlets in natural watercourses. Except where rock interrupts, nearly all of this work can be done with a grading machine.

The road as thus graded should be given a good crown, such as will provide for settlement. A road well crowned may seem at first to be too high, but such a road will last very much better than one that has a tendency to be too flat.

This earth sub-grade should then be thoroughly consolidated with a road roller before gravel or stone is placed on it. If this is not done, the broken stone mixes with the soft earth, and fails to form a strong coating such as will support traffic to the best advantage.

It is an excellent plan to provide margins to hold the metal, and this can best be done after rolling the earth sub-grade by drawing in a small quantity of earth from the edge of the road, with the grading machine, to a position that marks the width of the road metal. By some this is done before applying the metal, and by others it is done afterwards. There is not much choice in this detail, except as the progress of the work renders most convenient.

On the road as thus graded and rolled, the broken stone should be placed, the coarsest in the bottom, the finest on this, and the stone dust or "screenings" then applied to the top to help the stone to bind and form a smooth surface. The stone is usually placed to a width of eight feet and a depth of six inches, to form a durable roadway for moderate traffic.

When the stone has been put in place within the margin as above described, it should be thoroughly consolidated with a roller. Rolling should be done after a rain when the stone is wet, and should commence at the sides of the road and work towards the centre, otherwise the road will be flattened out and the crown partially reduced.

A roller is of advantage in many ways. It produces a more durable roadway than if neither the earth sub-grade nor stone coating are well consolidated into distinct layers. If the stone and earth are loose on the roadway, vehicles are for some time inclined to drive on the side of the road, cut it up, and do considerable injury. When traffic is forced by mud to go on the loose stone, it is a matter of annoyance to drivers, and much damage is done to the road, which, with stone and earth intermixed, will never be as durable as it would be if the road metal were consolidated into a firmly knit coating of clean broken stone.

On township and county roads a horse roller is generally used, weighing about five or six tons empty and six to seven tons loaded. The cost is about $90 per empty ton or $450 to $550.

With little or no gravel in a township, and stone plentiful, townships should own their own stone crushers. Under proper management a township can operate a crusher as cheaply as a contractor, and thereby effect a saving as well as provide the stone when it is wanted, and thereby put it on the road to best advantage.

The cost of a broken stone road varies considerably according to the locality and the skill of the men building it. Experienced men can do cheaper work than unskilled. Road commissioners and their men should do better and cheaper work the second season than the first. The grading of a road, if in easily handled earth, is cheaper than if rock and boulders have to be excavated and removed. Something depends on the work previously done on the road to be improved. For a new road under average conditions, the cost is from $75 to $100 per mile for each foot in width of broken stone; or for an eight-foot stone roadway, from $1.85 to $2.50 per rod.

QUESTION DRAWER

Subscribers are entitled to answers to all Questions submitted if they pertain to Municipal Matters. It is requested that all facts and circumstances of each case submitted for an opinion should be stated as clearly and explicitly as possible. Unless this request is complied with it is impossible to give adequate advice.

Questions, to insure insertion in the following issue of paper, should be received at office of publication on or before the 20th of the month.

Communications requiring immediate attention will be answered free by post, on receipt of a stamped-addressed envelope. All Questions will be published unless One Dollar is enclosed with request for private reply.

Liability for Building New School House.

1—F. M.—A new school house was built in school section A, and after the house was paid for a farm situated in this section was put into an adjoining section B, by rearrangement of section boundaries. Section B is now building a new school house, and the owner of this farm has to help pay for it. Is he entitled to a refund from section A of the money paid toward building the school house in that section?

No.

Drainage of Road—Powers of Township Council.

2—W. D. A.—In a certain district the land naturally slopes to the south-east. In the time of a freshet the water flows in that direction until it comes to a concession, and then runs east down the road ditch until it comes to another watercourse, where it crosses the road.

1. Can the municipality be compelled to put a culvert across the road at the place where the water strikes it, the water having gone along the road for at least thirty years?

2. Can the township be prevented from cleaning out the ditch along the said road so that the water will run away more freely?

1. No, but the council should see that the water crossing the road does not injure it to such an extent as to render it unsafe for public travel, in order to avoid responsibility for damages thereby occasioned.

2. No, but in doing the work the council should be careful that it does not collect and deposit on private lands, to their injury, water that does not naturally flow in that direction.

Disqualification of Voter for Non-Payment of Taxes.

3—D. Y.—This township council on 15th of August, 1900, passed a by-law, No. 237, in terms of section 535, chapter 22, of The Municipal Act, R.S.O., ss. 1, disqualifying electors in arrears for taxes.

On the 15th of August, 1904, the present council repealed by-law No. 237 by by-law as follows: "Be it enacted by the municipality of the Township of C——and it is hereby enacted by the authority of the same that by-law No. 237 be and is hereby repealed."

This by-law, No. 297, was signed by the reeve and township clerk and corporation seal attached. No. 237 was also signed and sealed.

1. Is 237 legally repealed? If so, how are electors who are in default for taxes affected?

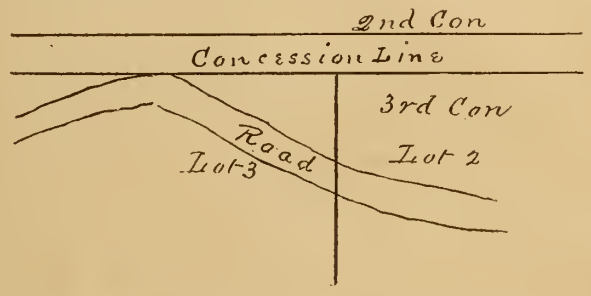
2. What bearing has section 137 of the Consolidated Municipal Act, 1903, on the case?

1. So far as the information furnished us warrants us in coming to this conclusion: By-law No. 237 of the municipality passed under the authority of sub-section 1 of section 535 of The Municipal Act was duly repealed by by-law No. 297, and persons who are lawfully on the voters' list, and are otherwise legally entitled to vote, and who have been assessed for REAL PROPERTY but have not paid their municipal taxes on such property on or before the 14th day of December preceding the election, cannot, on this account, be excluded from voting.

2. Under the circumstances stated, section 137, clause (a), has the effect of disqualifying as voters only "all persons who, being on the voters' list (that is to say, the first and second parts thereof), in respect of their income only, have not paid their municipal taxes on such income on or before the 14th day of December preceding the election." See also section 88.

Line Fence—Powers of Fence Viewers and Council.

4—W. J.—The council of D and N S sent out fence viewers to apportion the line fence on the other side of the concession line. The public has a road through two hundred acres of my land. The district council of 1848 was unanimous in granting the concession line in lieu of said road and some money, but I got neither concession line nor money.



Can they force me to go across the concession line to make the half of M.I.J. fence on the other side of the line?

If the concession line referred to is a public road allowance, the council or fenceviewers cannot compel you to build any portion of the fence along the side of such road allowance opposite to or across from your premises. If, on the other hand, what was done by the district council in 1848 had the affect of vesting in you that portion of the road allowance opposite your land (as to which we cannot give a definite opinion, not having sufficient particulars before us) it now forms part of your premises, and if it is "occupied land" within the meaning of section 3 of The Line Fences Act (R. S. O., 1897, chapter 284) you can be required by the fenceviewers to make, keep up and repair a just proportion of the line fence between yourself and your neighbor.

Compensation for Land Taken for Road.

5—C. H. M.—A bought property quite a number of years ago which, at the time, was in bush. The public was at the time using a part of it for road, and had been so doing for years before. When A bought property he paid for the whole amount, there being no exemption in deed for road. Proceedings in council's books can show no deed nor entry to show that the road has been properly established.

Can A collect pay for a road; the road has been travelled for forty years, and some claim been surveyed?

No. It is provided by section 438 of The Consolidated Municipal Act, 1903, that every claim for compensation for real property entered upon, taken or used by a municipal corporation in the exercise of any of its powers, must be made within one year from the date when the real property was so entered upon, taken or used. A should have seen that he did not pay for more land than he was getting a deed for at the time of making his purchase.

Detaching Land from School Section does not Oust Liability for Payment of Debenture Rate.

6—J. P.—A belongs to a school section called B which is paying debentures now for three years and has to continue to pay for twelve years yet for the erection of a school house. There is no road open for him to send his children to the school B, but he is sending his children to school section C instead of B for two reasons, namely: 1. There being no road to B school. 2. He is closer to C school. He is 3 miles from B and 2¼ from C, there being a debenture tax on his property for B. Can he be changed from the B school to C school section? If so, what steps should be taken?

Sub-section 2 of section 41 of The Public Schools Act, 1901, empowers the councils of townships to unite portions of an existing school section with another section on the terms and conditions in this sub-section mentioned. It is optional, however, with such a council as to whether it exercises this power or not. So far as the payment of the debenture rate is concerned, it would be no advantage for A to have his land detached from section B and added to section C, because sub-section 3 of section 74 of the Act, provides that, "notwithstanding any alteration which may be made in the boundaries of any school section, the taxable property situated in the school section, at the time, when such loan was effected, *shall continue to be liable* for the rate which may be levied by the township council for the repayment of the loan."

Date of Nomination.

7—J. C.—What day do municipal nominations fall on this year?

On Monday, the 26th day of December, being the last Monday in that month. (See section 118 of the Consolidated Municipal Act, 1903).

Reporting for Bribery at Legislative Election does not Disqualify for Election to Municipal Council.

8—T. C.—Our mayor was reported for bribery by the judge in connection with a provincial by-election lately. Does this debar him from becoming a candidate for the mayoralty this year?

As we understand it, the mayor was simply REPORTED for corrupt practices by the Judge at the trial of the Provincial election petition, and that he has not yet been proceeded against and FOUND GUILTY of such corrupt practices. It is therefore questionable whether section 177 of The Ontario Election Act is applicable to this case. A question similar to this was recently raised by the appellant's counsel in the North York Provincial election case, and is now under judicial consideration. The mayor is not disqualified under section 80 or any other section of The Consolidated Municipal Act, 1903.

Line Fences Act—Rights of Owners—Powers of Fence-Viewers—Costs.

9—W.W.D.—A and B are adjoining farmers and disputed over line fence. A called the fenceviewers.

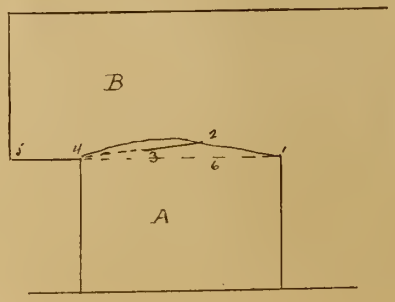
1, 2, and 4 represents old line fence (built 40 years).

1 to 2 is A's portion.

1, 6, and 4 is direct line.

2 to 4 is B's part and runs on a curve B has built from 2 to 3 in a straight line from 2 to 4 and intends to continue to 4.

Fence-viewers on meeting, not knowing their powers, tried arbitration and failed.



1. What is A's proper course?
2. What was the power of fence-viewers?
3. Who is responsible for cost of fence-viewers?

I might add that the fence-viewers got them to mutually agree to stake it out in a direct line from 2 to 4, but result not being satisfactory to A, he (A) refused to carry out his agreement. Would that affect the situation?

1. If the adjoining owners entered into, and signed and filed or registered an agreement in accordance with section 14 of The Line Fences Act (R.S.O., 1897, chapter 284), it is binding upon them and may be enforced as provided in section 9 of the Act. If this is not a binding agreement (and as to this we cannot say, not having seen it,) practically nothing has been done in the matter. Sub-section 1 of section 7 of the Act makes it the duty of the fenceviewers to make an award when legally called on, and if they refuse or neglect to act, if he so desires, A can obtain from the courts a mandamus compelling them to do so.

2. The powers and duties of the fenceviewers will be found in section 7 of the Act. We may say, however, that the fenceviewers have nothing to do with locating the line fence between the disputants.

3. We do not think that any of the parties concerned are responsible for these costs in the absence of an award made by the fenceviewers in which they state by which of the parties, and in what proportion the costs shall be paid, as required by the latter part of sub-section 1 of section 7.

Date of Nomination.

10—TP. CLERK—When should nomination meeting for township be held this year? Does section 2, chapter 7, 1903 Statutes of Ontario affect the holding of nomination on Monday, the 26th of December?

The day for the nomination of candidates for the office of reeve and councillors in townships is always the last Monday in December, unless such last Monday happens to be Christmas day, when, under the authority of section 124 of the Consolidated Municipal Act, 1903, the nomination shall take place on the preceding Friday. The enactment of the section quoted does not effect any change in this state of the law.

Continuance in Office of Clerk—Conduct of Scrutineers at Polling Booth.

11—COUNCILLOR—1. Where a clerk has been appointed at a salary of $200 per year, is it necessary at the first meeting of the new council to again draft a by-law re-appointing him where the salary has not been changed and he was legally appointed by by-law for the year 1904, or until his successor was appointed?

2. Where two agents are appointed to be present when a poll is being taken (either municipal or general elections) is it legal for either of those two agents, after being sworn in, to get up and leave the table, go outside, have an interview with other electors and tell who has or who has not voted?

3. If it is illegal for either of those agents to converse with outside electors, what is the duty of the D.R.O. to prevent same?

1. If the council has by this by-law appointed the clerk for an indefinite period at a certain annual salary, it is not necessary that he should be re-appointed by by-law passed each year. It would be different, however, if the clerk is appointed for a year certain.

2 and 3. There is nothing in The Municipal, Provincial or Dominion Election Acts to prevent scrutineers acting as mentioned, nor has the deputy-returning officer any power to prevent it.

Liability for Accident on Highway—Council Cannot be Compelled to Open Road—Law as to Setting out Fires—Qualification of County Councillor.

12—J.P.M.—1. If a person is driving on the highway and his horse stumbles in a wheel rut or a hole and dies from the injuries, is the municipality responsible?

2. A lumber dealer buys the front part of a lot for the timber and the road allowance was never opened out. When they get the timber off the land they want to sell the land, and if the road was opened out, would make the land more valuable. Can they force the council to open out the road ?

3.—When a farmer is clearing his land and wants to burn the brush and rubbish, is there any stated time that fire can be put out that if the fire should run on his neighbor's place and do damage he would not be held responsible for the damage ?

4. A person who acted as a member of municipal council, can he qualify for a county councillor, or would he have to act as reeve first ?

1. In order to fix the responsibility for the death of this horse on the municipality the owner must prove, in addition to the fact that the highway was out of repair, that the non-repair was due to negligence on the part of the municipal corporation, and that the accident happened, and the damage was sustained by reason of the non-repair. There must be evidence of the neglect of some duty on the part of the corporation which is sued.

2. No.

3. The council of a township is empowered by sub-section 16 of section 542 of The Consolidated Municipal Act, 1903, to pass by-laws "for regulating the times during which stumps, etc., may be set on fire or burned in the open air and for prescribing precautions to be observed during such times, and for preventing such fires from being kindled at other times." Chapter 268, R. S. O., 1897, authorizes the councils of townships to pass by-laws appointing fire guardians for the purpose of carrying out the provisions of the Act, but whether the council has passed or passes either such by-law or not, an owner of land who sets out fires at any time, and thereby occasions loss or injury to his neighbor, is responsible in damages for the injury in case he has been negligent in so doing which may be shown by his having started fires at an exceedingly dry season or by his not taking reasonable precautions to prevent the escape of the fire to his neighbor's property.

4. If a candidate is otherwise qualified under the provisions of The Consolidated Municipal Act, 1903, as a candidate for county councillor, the mere fact that he has not at any time been reeve of a municipality does not disqualify him.

Effect of Failure of Candidate to File Declaration of Qualification.

13—J.C.G.—At municipal elections will it be necessary for a candidate who was duly proposed and seconded, but who did not want to accept, to resign within a certain time as formerly, or will the not handing his qualification be sufficient for the clerk not to put his name on the ballot if he does not within a certain time ?

This municipality being an incorporated village, sub-section 3a of section 129 of The Consolidated Municipal Act, 1903, as amended by section 4 of The Municipal Amendment Act, 1904, is applicable. The latter part of this sub-section provides that unless a candidate for reeve or councillor, files with the clerk of the municipality the declaration of property qualification therein mentioned within the time prescribed, "*he shall be deemed to have resigned*, and his name shall be removed from the list of candidates and shall not be printed on the ballot papers."

A Line Fence Dispute.

14—J.A.L.—A and B are neighbors. A road allowance is reserved between their farms. This road may or may not be opened as the council may see fit. There is every probability that it will not be opened for some years. A wants a fence built in the line, but wants to build only his half. B objects to building his half, saying that as that is a road allowance A may build his own fence on his side the whole length, and he will do the same when he wants one.

Can B be compelled to build half the fence ? Should not the fence be built in the line, that is, in the middle of the road allowance as the road may never be opened ?

B cannot be compelled to build one-half of the fence between A and the road allowance, and neither A nor B has any legal authority to build a fence in the centre of the road allowance. This is not a case to which The Line Fences Act (R. S. O., 1897, chapter 284,) applies. Since there is a road allowance between them, A and B are not adjoining owners. The improbability that the road allowance will ever be opened for public travel does not affect the question in any way.

Date of Nominations.

15—A.E.—1. Christmas this year falls on Sunday and will be held the next day, Monday, the 26th December. Can nominations for village council and trustees be legally held on Monday, December the 26th ?

2. Can the election for reeve and council be legally held on Monday, January 2nd, 1905 ?

3. Do intending candidates for approaching municipal elections in villages have to register their qualifications before the nomination commences ?

1. The date on which nominations of candidates for membership in municipal councils is to take place is always the last Monday in December, unless such Monday happens to fall on Christmas day, in which event section 124 of The Consolidated Municipal Act, 1903, provides that the nominations shall be held on the preceding Friday. The last Monday in December this year is not Christmas day, so section 124 has no application, and the proper day for holding the nominations is Monday, the 26th day of December.

2. Yes, and this is the proper date.

3. Sub-section 3a of section 129 of the above Act, as amended by section 4 of chapter 22, Ontario Statutes, 1904, provides that candidates for the offices of reeve and councillor in incorporated villages shall, on the day of nomination, or at any time before nine o'clock in the afternoon on the following day, or when such last named day is a holiday then before twelve o'clock (noon) in the afternoon of the succeeding day, file in the office of the clerk of the municipality a statutory declaration in accordance with the form contained in section 311 of the Act or to the like effect, that he possesses the necessary qualification for the office, and in default of his so doing such candidate shall be deemed to have resigned, and his name shall be removed from the list of candidates, and shall not be printed on tbe ballot papers.

Effect of Allowing Maintenance of Fences on Highway.

16—A.A.Y.—We, as a municipal council, have given notice to parties to remove gates and other obstructions off streets running through their premises. Is this all that is necessary to prevent said parties from ever claiming these streets ?

No, if the owners having portions of the streets fenced in are allowed to maintain their fences on the highway beyond the time prescribed by statute, they will acquire a possessory title to the portions fenced in. If the council wishes to avoid this, it should either see that the fences are removed, or that a legal agreement as to the leasing of the portions of road, is entered into pursuant to section 637 of The Consolidated Municipal Act, 1903.

Power to Force Installation of Telephone Instrument in Railway Office.

17—T.C.L.—1. We are getting up a local telephone company here with no outside connections. Is there any way by which we can compel the Grand Trunk Railway to allow a phone being installed in the station with the same privileges as the Bell phone ?

2. Have the Bell Co. a monopoly or an exclusive right agreement with the G.T.R. ?

1 and 2. We are not aware that such an agreement as you mention exists between the Grand Trunk Railway Company and the Bell Telephone Company, but whether there is or not, we do not see how the railway company

can be compelled to instal a telephone instrument on its premises, if it does not see fit to have it there.

Qualification of County Councillor.

18—T.C.L.—Can a person possessing a leasehold assessed on the last revised assessment roll for $850 qualify for a seat as county councillor or commissioner? Section 76, *subsection 6*, and section 77. They seem to conflict and are not very clear. The party also has personal property to the amount of $1,500.

Section 77 of The Consolidated Municipal Act, 1903, provides that "every member of a county council shall possess the same property qualification as the *mayor of a town* is required to possess." Since this town is not located in any of the districts mentioned in sub-section 1 of section 76 of the Act, nor in the provisional County of Haliburton, a candidate for the mayoralty (and also for councillor of the county) must, at the time of the election, have, either in his own right or through his wife (if he seeks to qualify on leasehold property) leasehold property to the value of $1,200. (See clause (b) of sub-section 1 of section 76 of the Act). The fact that he has personal property to the amount of $1,500 does not affect the question in any way.

Levy and Disposition of Debenture Rate When no Sinking Fund Created.

19—Sarawak—About four years past the council and ratepayers passed a by-law loaning a company $5,000, at 4% for ten years, to erect a canning factory, with the usual exemption from taxes for the same period, debentures, ten in number, $616 each, principal and interest combined, one payable each year, council taking a mortgage on the factory and lands for an equal amount, instalment of mortgage and annual debentures due the same day.

Council had levied a special rate each year to pay this annual debenture of $616, making the ordinary levy for expenses less the same amount, relying on the instalment of mortgage to replace the shortage, the ratepayers paying no more than if there was no canning factory.

The council at first levy instructed the ratepayers that they were actually paying nothing towards canning factory, but to avoid the penalty of section 418, subsection 5, of The Municipal Act, of being disqualified for two years, council had made a special levy for four years to meet the debentures each year.

The canning company complained of this special levy, as they have paid promptly for the past four years on the day due their annual instalment on mortgage of $616. Their principal reason for complaining is, certain ratepayers say they have to pay for the canning factory, although generally it is well known by the ratepayers to the contrary.

The factory is a good investment to the ratepayers and also to the company, and the council are satisfied the company will pay promptly each year the balance of the mortgage as they have done in the past, and would like to make things as pleasant as possible for all concerned.

1. Did council do right under sec. 418, subsection 5, Municipal Act, to levy special rate to meet debentures?

2. Can you name any other legal way to meet the company's objection for future payment?

1 and 2. As we understand the statement of the facts, the amount raised by debentures of the municipality for the purposes of this loan, is payable in ten equal annual instalments of principal and interest, that is $616 in each year. We assume therefore that the by-law makes no provision for the creation of a sinking fund to meet the payment of the principal money borrowed by the municipality as and when it matures, nor is there any necessity for any such provision. In view of this, we are of opinion that section 418 of The Consolidated Municipal Act, 1903, is not applicable to this case. It applies only to instances where a sinking fund is being raised and retained by the municipal corporation to meet the payment of the principal money of debentures at maturity. If the council is sure that the proprietors of the canning factory will promptly pay over the sum necessary to retire each debenture as it matures, it may refrain from making the levy therefor, without its members incurring the penalty mentioned in sub-section 5 of section 418. The better plan, however, would be to make the levy annually, as the by-law probably thus provides, and reduce the estimated expenditure for the year by the amount to be paid by the proprietors of the factory, which will make the sum to be raised by general rate that much less.

Place of Holding Meetings of Township Councils.

20—J.S.K.—The village where our township council meetings have been held for the last 50 or 55 years (in a rented room) is about being formed into a police village.

1. Will it be necessary to remove our township council meetings from said police village?

2. Supposing township council decides to locate council chambers elsewhere, then what are the necessary proceedings?

3. Has the township clerk any power to prevent the council from removing the council meetings to another locality?

4. Can a township council hold their council meetings inside the corporation of an incorporated village?

1. No.

2. A resolution on adjourning a meeting of the council is sufficient to fix the place of its next meeting. (See section 265 of The Consolidated Municipal Act, 1903).

3. No.

4. Yes. Section 266 of the above Act provides that the council of any township in which any village lies may hold its sittings, keep its public offices, and transact all the business of the council, etc., within such village, etc.

Assessment of Townships Must be Made Annually.

21—J.L.S.—Is it legal for a municipal council to pass a by-law adopting the assessment of previous year?

I am a member of the municipal council of township of N. We had a very satisfactory assessment in 1904. I was thinking of moving to adopt it for 1905. I wish to know if it would be legal. There were a great many houses and barns erected in the township this year, and I thought it hardly fair for the owners to be raised in their assessment, thereby paying taxes for their improvements before they are really paid for.

But by adopting the assessment of this year for next year those who made improvements would not have to pay taxes for perhaps two or three years on their improvements.

I am of opinion that an assessor would have to be appointed in any case to attend Court of Revision to equalize union school sections and attend the Judge's sitting re voters' list, etc.

Since this municipality is not in one of the Territorial Districts, an assessor must be appointed, and an assessment of property made ANNUALLY. There is no provision either in the old or new Assessment Act (which comes into force on the 1st January inst.) or elsewhere for the adoption by the council, of one year, by resolution or by-law, of the assessment of the previous year. The assessor is required by law to value all property at its actual cash value. (See section 28 of the old Assessment Act and section 36 of the new).

Casting Vote of Clerk.

22—E.D.—We have two aspirants for the office of mayor for 1905. One served two years in council and since has served three years as commissioner of waterworks and electric light, which position he now holds. The other has been a member of the council last year and this. According to the precedent usually followed by clerks, in case of a tie vote for whom should I give the casting vote?

If the clerk is called upon to give a casting vote at this election, he should give it to the candidate who, in his opinion, is most competent to fill and discharge the duties of the office of mayor of the municipality. The fact that one candidate has been longer in municipal service, and that the offices he has filled have been more varied than the other, is merely a factor in enabling the clerk to estimate the competency of the respective candidates.

Qualification of Voters on Local Option By-law—Powers and Duties of Reeve.

23—SUBSCRIBER—1. Who on the lists can and cannot vote on a by-law to enforce local option ?

2. Can farmers' sons ?

3. Can tenants of all classes ?

4. If by statute or by-law the reeve is appointed to do a certain act, can the council, by resolution or otherwise, appoint one of their own number to act in his place during his illness or absence ?

5. Could the reeve, during his illness, make an appointment at his own house that, under a by-law, he was to make at the council chamber ?

1. All persons who are entitled to vote at municipal elections in the municipality are entitled to vote on a local option by-law submitted to the electors pursuant to section 141 of The Liquor License Act.

2. Yes, if on the proper voters' list to be used at the voting on the by-law.

3. Yes, if on the proper voters' list to be used at the voting on the by-law.

4. If the act to be done is directed by statute to be performed by the reeve as *persona designata*, it can be done only by him personally, but if the act is one within the authority of the council it can by by-law appoint any of its members to do the act, unless where the statute provides that the council shall appoint the reeve only. It would be more satisfactory to us if you had given us more specific information.

5. No.

Qualification of Councillor in Cities.

24—H.F.L.—Can a party assessed as leaseholder for $1,200.00 and freeholder for $800.00 qualify and make the necessary declaration under section 76 of The Consolidated Municipal Act of 1903 ?

We are of opinion that he can. Since this municipality is a city, a candidate for membrship in the council must be rated on the last revised assessment roll of the municipality to at least the value following, over and above all liens, charges and encumbrances affecting the same : Freehold to $1,000 and leasehold to $2,000, and so in the same proportion in case the property is partly freehold and partly leasehold (see the last two lines of sub-section 1 of section 76), i.e., enough to make up the required amount, counting every dollar of freehold as equivalent to two dollars of leasehold. Different properties may be added together to make up the required amount. (See Rex ex rel. Dexter v. Gowan, 1 Practice Reports 104).

Qualification of Councillors and Voters in Towns in Districts.

25—H.J.T.—1. A town incorporated under chapter 30, 1902 Act. What are voters' qualifications, also for mayor and councillors' first election ?

2. Does sub-section 129 apply here ?

1. Section 5 of chapter 30, Ontario Statutes, 1902, provides that (except as otherwise provided in the Act) all provisions of *The Municipal Act* which apply to first nominations and elections, etc., and to the qualifications and disqualifications of electors and members of the councils in new municipalities incorporated or erected under the provisions of the said *The Municipal Act* shall, as far as can be, apply to the first nominations and elections, etc., in towns incorporated under the Act. Section 90 of The Consolidated Municipal Act, 1903, provides that " at the first election in a new municipality for which there is no separate assessment roll, every resident male inhabitant though not previously assessed, shall be entitled to vote, if he possesses the other qualifications above mentioned (that is, in sections 86 and 87 of the latter Act) and has at the time of the election sufficient property to have entitled him to vote if he had been rated for such property." The qualification of members of the council is that mentioned in section 76, sub-section 1, clause (b), of The Consolidated Municipal Act, 1903, if the town has been formed out of portions of organized municipalities in which there are revised assessment rolls.

2. Sub-section 3a of section 129 of The Consolidated Municipal Act, 1903, as amended by section 4 of chapter 22 of The Ontario Statutes, 1904, applies to the first election in the town.

Power of Commissioner—A Poundage By-Law—Construction of Walk Along Side of Road.

26—T.W.—1. Can a councillor if not elected still retain his commission on tap drain for 1905 ?

2. Can a township council pass a by-law and allow cattle to run at large on the highway for a part of the township and prohibit them from running in the other part ?

3. Owners of land in constructing ditches which empty into drain on the highway that have been constructed under The Drainage Act, and in so doing causing inconvenience to footmen on the side of the road, the township wishes to have them bridged. Which would be the proper way to proceed to have them bridged, and who should bear the cost of bridging ?

1. Yes.

2. Yes.

3. If the council deems it advisable to construct a footpath along the side of the highway for the accommodation of pedestrians, and bridges over tap drains are necessary, the municipality will have to construct them at its own expense.

Collection of General Levy in Union School Section.

27—T.N.—1. Does the general school tax levied on the ratepayers of a municipality include that portion of the said municipality where there is a union school and the school house is built in another municipality ?

2. The clerk of a municipality of A sends the requisition to clerk of B, and the latter levied 4½ mills general school tax and 2 mills requisition to raise the necessary amount, and did not allow anything for general school tax to that part of the municipality outside of union school section. The tax bill reads thus :

S. S. No. 1	General school tax	19 mills
S. S. No. 2	General school tax	19 mills
Mun. School	General school tax	4¼ mills

in the same municipality. Some claim this as right, others condemn it.

1 and 2. Sub-section 1, section 70 of The Public Schools Act shows the amount which has to be levied over the whole township, and by sub-section 2 of the same section the amount so to be raised must be apportioned in the case of union school sections in the proportion fixed by the equalization provided under section 54 of the Act.

Voting for Councillors Elected by General Vote.

28—R.C.—In this town we have three wards, each ward represented by three councillors, and electors who owned property in, say, two or three wards voted two or three times, as the case might be, but only once for reeve or mayor, in the ward where the voter lived.

A few years ago the wards were done away with and the town was divided into polling sub-divisions. The council was nominated without reference to wards.

1. Can voters who own property in two or three sub-divisions vote at each polling sub-division, thus giving his candidates three votes each ?

2. If a by-law (money) is to be voted on, can three votes be cast by the voter who owns property in each polling sub-division ? How does this agree with the principles of Ontario "one man one vote ?"

1. Sub-section 1 of section 158 of The Consolidated Municipal Act, 1903, provides that in towns in which councillors are elected by general vote (as appears to be the case in this town) every elector may vote *once only* for each councillor to be elected, and in case any elector is rated for the necessary qualification to vote in more

than one ward or polling sub-division of the municipality in which he resides, then he shall vote in the ward or polling sub-division in which he resides if qualified to vote therein ; or in case he is not so rated in the ward or polling sub-division in which he resides, or is a non-resident, then at the place at which he first votes *and there only*.

2. Since wards have been abolished in this town, section 355 of the above Act does not apply, and each qualified elector can vote only once on a money by-law.

Council Should not Build Culverts for Private Parties.

29—G.S.B.—A wooden culvert on one of our roads needed renewing this summer. The owner of one of the adjoining farms had an old box drain which ran in through under the culvert and into the farm on the other side of the road about one rod and empties into a creek. The drain has been choked up for a number of years and the water has run across the road on top of the ground. He wanted the council to give him an outlet for this drain. The council thought that it would be best to put a tile drain through underneath the sewer pipe that was going to be put in, but he objected to that, as the sewer pipe might crush the tiles. The council put the sewer down to the level of the drain and gave him an outlet that way without a drain across the road at all.

A contractor did the job. In digging out the crossing to get the sewer pipe down level with the drain the road caved in and made a lot of extra work. He also had to start at the creek and dig up to the culvert to let the water away which was coming from the drain, as there was no surface at the time. The contractor charged $10 for the job. The council gave him $9 and told him to get $1 from the man who wanted the outlet. He objected to pay, claiming that he can compel the council to give him an outlet at the expense of the municipality whether it is going to benefit the road or not.

The council are satisfied that the job could have been done for $6 to have put the culvert the same depth as the old one, and that was all that was necessary for road purposes.

1. Did the council do right ?

2. Can a farmer compel the council to give him an outlet for a drain across the road at the expense of the municipality when it is going to be no benefit to the road to do so ?

1. No. The council should have remained passive in this matter, and the owner requiring the outlet should have instituted proceedings under The Ditches and Watercourses Act (R. S. O., 1897, chapter 285), whereby the interests of all parties concerned could have been properly adjusted.

2. No.

Councillor's Liability for Injury to Separator.

30—J.E.H.—A party was going along the road with a traction engine, behind which was the tank, and attached to tank was separator, all on wheels, and the road covered with snow and good sleighing. On coming to a culvert the separator took a slide and went over, causing some damage which is blamed to the council, who have refused to pay for the same. They had passed all right the first time, and it is believed that the separator had been gradually sliding before coming to the culvert.

1. Is the council liable ?

2. Engine got by on return all right. Had they a right to have such a long train on slippery road without a watchman behind ?

3. What is the best thing for the council to do ?

1, 2 and 3. If the culvert and its approaches were in good repair and of sufficient width to preclude the probability of accidents happening to the ordinary vehicular travel over them, we do not think that under the circumstances stated, the municipality can be charged with any negligence or held responsible in damages to the owner of the separator. As we understand the matter, he was proceeding in a dangerous manner along a highway known by him to be in a slippery condition, and must be presumed to have taken on himself all risks of the accident happening.

Owner not on Assessment Roll Cannot Tender Ballot.

31—J.W.—Our assessor missed assessing a person and therefore he is not on voters' list. The property is at least $600, and he lived on same. Can owner tender his vote at provincial election ?

Not under the circumstances mentioned. The only instance in which a voter can mark and put in a tendered ballot at a Provincial election is that referred to in section 108 of The Ontario Election Act (R.S.O., 1897, chapter 9,) and this is not such a case.

Mover and Seconder of Candidate Should be Present at Nomination Meeting.

32—W. J. H.—1. In the December number of The Municipal World you say that the mover and seconder of a candidate should be present. Must they be present ?

2. A nomination was sent in at the nominations for county councillor yesterday and neither the mover nor seconder was present. The paper was sent in with another person. Is the nomination legal ?

1. We think that section 128 of The Consolidated Municipal Act, 1903, contemplates that nominations must be made in the manner therein required by two electors present at the meeting.

2. The returning officer or chairman at the meeting having received the nomination paper without objection as we understand the case, the better course now will be to let it stand and place the name of the candidate upon the ballot.

Mover and Seconder of Candidate Should be Present at Nomination.

33—G. M. D.—1. Must the mover and seconder of a candidate for county council be present at the nomination ? Your article on page 264 re nomination proceedings says nominator and seconder should be ?

2. Is the nomination illegal if one of the names to the nomination paper is not present at all during the hour of nomination ?

1. Section 128 of The Consolidated Municipal Act, 1903, contemplates that the nomination should be made by two electors present at the meeting and not by absentees who are not part of the meeting.

2. Assuming that the nomination paper was received and filed by the returning officer or chairman of the meeting without objection we think it the right course to place the name of the candidate upon the ballot.

Dissolution of Union of Counties.

34—J. R.—In case of counties being united for a number of years, and one of the counties desiring to separate, what would be the proper steps to take to secure such separation ? Or if provision is made by statute therefor, would you kindly give information where to find it ?

There does not appear to be any provision in The Municipal Act for the dissolution of a union of the counties, and therefore resort must be had to the Legislature for special legislation for that purpose.

Advantages of Commutation of Statute Labor.

35—I. H.—1. Will you please give me your opinion as to what you think of commutation of statute labor, as our council are talking of going back to the old system next year ?

This is a question for the opinion of those who have had practical experience in the actual working of the two systems, and have had an opportunity of observing their advantages and disadvantages. We would suggest that you communicate with Mr. A. W. Campbell, Provincial Highway Commissioner, Parliament Buildings, Toronto, on the subject, and have him send his last annual report. This contains the results of the experiences of numerous municipalities throughout the Province.

Liability for Maintenace of Bridge on Town Line.

36—A. C.—There is a stream crosses the town line between E. and A. known as the Nation River, about eighty or ninety feet wide at high water. The town line has been opened by by-law.

Kindly say which is responsible for the building of the bridge, the county or township?

Section 617, sub-section 1, of The Consolidated Municipal Act, 1903, provides that "It shall be the duty of the county councils to erect and maintain bridges over rivers, streams, ponds, or lakes, forming or CROSSING boundary lines between any two municipalities (other than a city or separated town) within the county, etc. (See also sub-section 3 and 4 of this section).

Collection of Drainage Assessments—Duties of Council and Drainage Court of Revision.

37—H. S.—The township of S. employed an engineer to estimate cost of cleaning out a drain. In his award the township of D. an adjoining municipality was taxed a certain amount, which amount was paid over to the township of S. by the township of D. There has been nothing done on the part of drain that affects the township of D. Parties assessed in township of D. complain they have paid two payments and received no benefit. The council of the township of D. says the fault lies with the township of S. as they were the party that let the job and had charge of the work.

1. What is the duty of each municipality?

2. Can parties refuse to pay their ditch tax in township of D.?

3. Can the council legally change an engineer's award lowering one and adding to another without holding a court of appeal and notifying parties affected by the change?

4. Is a council personally liable that has transacted business in that manner, if so to what extent are they liable?

5. Could the council legally lower my assessment on drain mentioned about $50 and add it unto charge against roads without the knowledge of any of the ratepayers. Should ratepayers be made aware of the fact?

1 and 2. It is the duty of the municipality of S. to construct the drainage works as soon as may be reasonably possible in accordance with the provisions of the by-law and the engineer's report, profile and specifications, otherwise a mandamus can be obtained from the courts compelling it to do so. We do not see that the municipality of D. has anything further to do in the matter than to collect from the owners liable therefor the sums necessary to retire the debentures issued for the moneys paid over to S. at their maturity—if any such were issued—and if not, to reimburse the municipality the sum paid to S. on this account. We do not think that, under these circumstances, the owners in the municipality of D. liable for these assessments can successfully resist payment of the drainage rates.

3. Assuming that an engineer's REPORT is meant and not an AWARD made pursuant to the provisions of The Ditches and Watercourses Act (R.S.O., 1897, chapter 285), the council, sitting as a Court of Revision, can make changes in the assessments mentioned in the report, and the by-law embodying it, only after having taken the proceedings mentioned in section 24 and following sections of The Municipal Drainage Act (R.S.O., 1897, chapter 226).

4. No. What the council did would be simply a nullity, and no person interested would be bound by it.

5. The council has no authority to pursue this course. A notice of the holding of a Court of Revision should be appended to the by-law as published or served on the parties interested (as the case may be). See section 21 of the Act.

Assessment of Parsonage—Liability for Poll Tax.

38—D. McG.—The Methodist church owns ½ an acre of land in the town. The church is build on one side and the parsonage on the other side of the lot, with fence between. Would the parsonage be liable for taxation in the ordinary way?

2. Does the fact of a man being a householder or tenant whose name does not appear on the collector's roll as liable for the taxes on the premises he occupies exempt him from poll tax?

1. Yes. This parsonage and the land or lot on which it is erected, do not come within the exemption mentioned in sub-section 3 of section 7 of the old Assessment Act, or sub-section 2 of section 5 of the new.

2. We do not know how the name of this tenant or householder got on the *collector's* roll, if he is is not jointly with some one else, or severally, responsible for the payment of some taxes. The question, however, is whether his name is entered on the ASSESSMENT roll, either severally or jointly with some one else, as tenant or occupant of the house he lives in. If he is not so entered on the assessment roll, or, if so entered, his taxes do not amount to $2, he is liable to pay the $1 tax mentioned in section 97 of The Assessment Act. If he is so entered on the assessment roll, and his taxes amount to more than $2, he is exempt from this payment.

Township Council may pass Early Closing By-law.

39—E.—1. Can a township council pass a by-law legally prohibiting merchants from selling goods after seven o'clock on certain nights through the week?

Sub-section 2 of section 44 of chapter 257, R.S.O., 1897, provides that "any local council may by by-law require that during the whole or any part or parts of the year, all or any class or classes of shops within the municipality shall be closed and remain closed for each or any day of the week at and during any time or hours between seven of the clock in the afternoon of any day, and five of the clock in the forenoon of the next following day." By clause (d) of sub-section 1 of this section "local council" means, amongst other things, "the municipal council of any township within which is situate any unincorporated village."

Collection of Engineer's Fees.

40—Clerk—A drain was constructed under the provisions of the Municipal Drainage Act. Said drain affects three municipalities. When making his report the engineer did not make provision for the payment for final passing by engineer. It was necessary that he should pass the drain. The initiating municipality paid him and charged it to the drain account, there being plenty of funds after paying all expenses. Now the reeve of one of the other municipalities claim that they had no right to do so as it was not mentioned in the report, and wants the amount divided amongst the ratepayers. What is your opinion?

The fees of the engineer, as mentioned in his report, is simply an estimate of what they are likely to be, when the drainage work is finally completed. They may, eventually, not reach that sum, or they may exceed it. If the latter is the case (as appears to be so in this instance) we see no legal reason why the excess should not be charged against the drain in respect of which his work was done.

Appointment of Auditors.

41—C. M.—1. Can the council appoint the auditors at the first meeting in January of the council for the year 1905, and does the law give us power to have the accounts audited by the last of December, 1905? I find the township next to ours carries on their business in that way, and there is a dispute with us which way is right. Our auditor is not appointed yet to audit the accounts for 1904, and that is the way the business has been carried on in this township for years, and would like to know which way is right. I think each year's business should be settled by itself.

The Consolidated Municipal Act, 1903, provides two methods of appointing auditors. They may be appointed under section 299 at the first meeting of the council to audit the accounts of the municipality for the previous year, as provided in sub-section 1 of section 304, or they may be appointed in either the month of *November* or *Deeember*, pursuant to the provisions of section 301, to audit the accounts for the succeeding year, as provided in this section and section 302. The Act contains no provision for the appointment of auditors by a council at its first meeting in January to audit the accounts for the *then current* year.

Seizure for Taxes.

42—Collector—A. is the owner of 300 acres of land which is patented. A. sold the standing timber to B. who runs a factory; B. sold factory, timber and all to C. C. is about to start running factory and is about to commence cutting the timber on A.'s lot.

1. Is the timber when cut into logs liable for the taxes of 1904? A. is the party assessed and has left the country, and there is nothing belonging to A. to distrain.

No.

Councillor, or Candidate for, cannot be Returning Officer.

43.—F.W. D.—Is a candidate for the vfllage council, he being also a member of the retiring council, eligible for returning officer in the absence of the clerk?

This councillor's term of office does not expire until the new council is elected, and a council cannot appoint one of its members to any office within its gift. If he had not been a member of the retiring council, but was in the field on election day as a candidate for councillor, he could not legally preside as returning officer at his own election.

Collection of Fee on Animals Running at Large.

44—A ratepayer—1. Can a municipal council in passing a by-law for restraining animals from running at large make provision in such by-law that owners of animals by paying $1 or more per head can have the privilege of pasturing their stock on the highway, and can the municipal council legally collect said money?

We are of opinion that a municipal council can legally pass a by-law of this kind. In the case of Ross v. The Township of East Nissouri it was held that the council of a township could legally pass a by-law allowing cattle to run at large, provided they wore a tag for which the owners had paid a certain fee to the municipality.

Clerk should pay for Substitute.—Burial of Unclaimed Body.

45—Municipal Clerk—A. A municipal clerk is appointed by a council to do all the work required of him by the statutes as clerk of the council at a specified salary. When the municipal nominations were held the clerk was absent, but provided a substitute to preside at the nomination. Should the council or the clerk pay the substitute?

B. The dead body of a man, a non-resident of a municipality, was found within the limits of the said municipality. The district constable took charge of the body, and after the inquest was ordered by the coroner to bury the remains. Should the municipality defray the funeral expenses, no notification of the matter having been given to the municipal authorities?

A. The clerk.

B. Section 19 of chapter 177, R.S.O., 1897, provides that "subject to the provisions of this Act, any unclaimed body found dead within the limits of a city, town, incorporated village or township, shall be buried at the expense of the corporation of such city, town, village or township, but such corporation may recover such expense from the estate of the deceased." We would direct attention also to sections 9 and 11 of the Act.

Contents of Declaration of Qualification.

46—C. A.—1. I submit a declaration of property qualification for councillor as provided by the clerk. There have been some exceptions taken to it as it does not refer to the last revised assessment; others state if they have the necessary qualifications it matters not to the assessment. What is the law on the matter of qualification?

The form submitted is of the statutory declaration required by section 311 of The Consolidated Municipal Act, 1903, to be made by every person elected or appointed under the Act to any office requiring a qualification of property, before he takes the declaration of office or enters on his duties. It is an exact copy of the form given in the above section, and is therefore absolutely correct.

Candidates for Councillor in Townships not Required to File Declarations of Qualification, under S. S. 3a of S. 129.

47—D. McD.—At the municipal nomination for the township five candidates were nominated for the office of councillors and four filed their declaration of qualification within the time required by law and one failed to file his qualification.

1. Should his name appear on the ballot?
2. Should he be elected by vote?
3. Will this unseat him?
4. What course would you advise me to adopt?

1, 2, 3 and 4. This municipality being a township, sub-section 3a of section 129 of The Consolidated Municipal Act, 1903, as amended by section 4 of chapter 22 of The Ontario Statutes, 1904, has no application. It affects only cities, towns and incorporated villages. Candidates for the offices of reeve and councillors in this instance are, therefore, not required to file declarations of qualification as mentioned in sub-section 3a, and unless a candidate files a resignation in the time and manner prescribed by the Act, his name should go on the ballot to be used at the election.

By-law to Elect Electric Light Commissioners—Qualification of Electors—One Poll-Book Sufficient—Naturalization of Alien.

48—W. J. C.—1. Our village having already passed a by-law for the purchase of an electric light plant are now submitting a by-law to the electors to obtain their assent for the same to be governed by a board of commissioners. Now, in this case who are considered the electors?

2. Where there is an election of councillors, also voting on the above named by-law, is it necessary to prepare two poll-books, one for councillors and one for by-law?

3. A. was born in Ontario and after having grown to manhood moved to the United States, where he becomes a naturalized citizen. He then returns to Canada. Now is A. a British subject? If not what steps are to be taken by him to become a British subject?

1. The electors entitled to vote on a by-law of this kind are all those having the right to vote in the municipality at municipal elections. (See sections 3 and 14 of chapter 234 and section 40 of chapter 235, R.S.O., 1897).

2. One poll-book is sufficient, as the electors entitled to vote in both instances are the same. One of the extra columns on the right hand page of the poll-book should be headed "By-law No. " (giving the number of the by-law) and the deputy-returning officer should note therein opposite the name of the voter that he has voted on the by-law.

3. After having become a naturalized citizen of the United States A is no longer a British subject, and to become such he must be naturalized in the manner provided by The Naturalization Act.

Qualification of Candidate for Councillor.

49—E. G. C.—B. has been nominated for councillor and when being assessed he was a tenant and assessed for $250. In Sept. he bought a property at $900 and paid cash for it.

1. Is he, B., if elected, entitled to a seat in council or not?

It is not stated whether this is a township municipality or otherwise, but since it is not located in any of the districts or the provisional county mentioned in sub-section 1 of section 76 of The Consolidated Municipal Act, 1903, B cannot qualify under the circumstances of this case for a seat in the council. He is not rated on the last revised assessment roll of the municipality for sufficient to qualify him as a leaseholder in any municipality outside the districts and provisional county above referred to. (See sub-section 2 of section 76).

Police Trustees May Pass By-law to License Billiard and Pool Rooms.

50—W.T. McK.—In our township we have a police village. A barber persists in running a pool room against the wishes of the better part of the community. Our council did not license it last year, but the police trustees did at a fee of thirty dollars.

1. Had they power to do so ?

2. Have we any way of closing said pool room only by imposing license fee that will be prohibitory ?

3. What is the highest fee we can impose, or is there any liability ?

4. If he should be fined for running it, what is the penalty, or would we have to name that in by-law imposing the license ?

1. Sub-section 1 of section 746b of The Consolidated Municipal Act, 1903, empowers the trustees of a police village to pass by-laws for the purposes mentioned in sub-sections 4 and 5 of section 583 of the Act, and the latter part of this sub-section provides that after the passing of such a by-law by the trustees of a police village no general by-law of the township in which the police village is situate passed for the purpose, shall apply in such village. Sub-sections 4 and 5 of section 583 authorize the passing of by-laws for licensing, etc., billiard and bagatelle tables. Therefore, if the by-law was passed under the authority of the above sections of the Act, they had power to pass it.

2, 3 and 4. The trustees of the police village having passed a by-law for this purpose the council of the township has no power to interfere in the matter.

Qualification of Councillor.

51—W. D.—We are an incorporated village, and in August last our council made a contract with the Bronson Light Co. of Atlanta to place fifteen street lamps on our streets for which our council agrees to day $10.00 per lamp per year payable 1st of October, 1905. Later on at one of the council meetings the council agreed to put in two extra lamps, making 17 lamps, and by a request of one of the ratepayers put in one extra lamp at a certain street corner to be paid by the ratepayer. This ratepayer wants to run to represent the village as reeve. He has paid his $10.00 for the lamp to the council and the council does not have to pay the Light Co. until the first of October of the next year when they will pay for the 18 lamps to the Light Co., and this ratepayer is to come under the same contract. Does this release the ratepayer from being under any obligation or contract with the council by paying his money. But the council has to see that this light is kept lit for twelve months.

1. Can he qualify as reeve if elected ?

2. The reeve refused to put a motion at council meeting on 15th to give a receipt to this ratepayer in full for this light and the council appointed one of themselves as reeve to put this motion, which was put and carried. Had the reeve the right of refusing, and if so, could they appoint one of themselves to put the motion ?

3. Is it the reeve or the clerk that has charge of the order book ?

1. We are of opinion that this ratepayer has an interest in a contract with the council, until the expiration of the period during which it has agreed to keep this lamp lit, and is, therefore, during that time disqualified as a candidate for membership of the village council.

2. The reeve could refuse to put the motion, if he so desired, and the other members of the council acted within their authority in appointing one of their number as temporary head of the council for the purpose.

3. The clerk is the proper custodian of the order or cheque book, as well as all other documents of the council.

Liability for Cost of Survey—Damages for Trespass.

52—D. E. McF.—A and B are two neighbors. Blind line between their lands is all bush. A puts up a notice forbidding any trespass on blind line. B paid no attention to notice and went over blind line, as A supposed on A's property. B got a neighbor to make a survey between A and B without consulting A. A protested to the survey made by B and notified B that he (A) would not accept the survey, but notified B that if B would pay his half of the survey that he (A) would employ a legal surveyor and survey the property between them. B refuses to pay his share and tells A that he (B) is going to cut and remove timber and be guided by the survey made by B and his neighbor.

1. Can A compel B to pay half of survey ?

2. Can A sue B for damages for timber cut by B on A's property after the notice ?

1. No.

2. A's claim against B for damages depends upon whether the latter trespassed upon A's lands or not. If A sues B for damages he must satisfy the court that B crossed the true boundary line and did damage to A's lands. If he cannot prove this without a surveyor he must bear the surveyor's expense himself if he gets one.

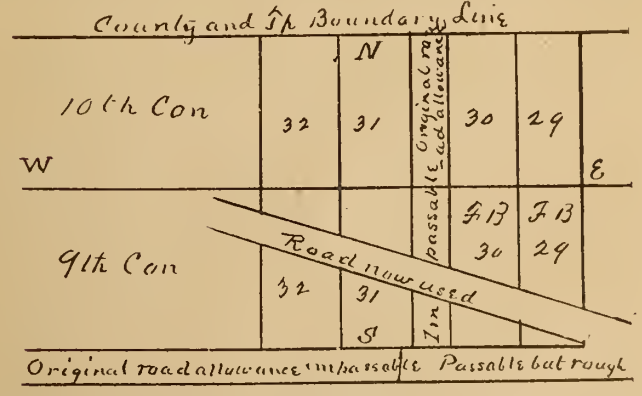
Method of Assessing Retail Merchants.

53—W. C. T.—I was a tenant for a few years ; now I own the building. Would like to know what I should be assessed for ? It is a three-story building. I paid $2,000.00 for it. The top story is lodge rooms. I occupy second story for dwelling and the first story is a double and a single store. When I was a tenant I paid $150.00 a year rent for large store and dwelling. The small store has been vacant for a year, and I use it for store room, but have plenty of room without it, and it is for rent at any time. I carry a stock of $6,000.00 dry goods, groceries and shoes, about half paid for or better. I have asked several in reference to new Assessment Act, but none seem to understand it.

These premises should be assessed at an amount which the assessor, in his opinion, considers to be their actual cash value, in accordance with the provisions of section 36 of The Assessment Act (1904). In addition to this amount the owner should be assessed for 35 per cent. of the assessed value of that portion of the premises occupied and used by him for the purpose of carrying on his business as a retail merchant, as required by clause (g) of sub-section 1 of section 10 of the Act.

Establishing New Road—Sale of Interest in Crown Lands for Taxes—Liability for Building and Repairing Bridge.

54—A. S.—Inpast years members of our muncipal council have been careless in establishing public roads over private or Crown lands and neglected in some cases to take proper conveyances or sufficient bonds for land granted by private parties for such roads or to report to the Department of Crown Lands such roads as were established over Crown Lands, and the municipality has lately repeatedly been put to considerable trouble and expense to procure good title to land formerly granted and dedicated gratis for public roads. Here is another instance : Eleven years ago the council sent the township road surveyor to locate a road for a few settlers residing or holding land in the eastern part of the township. Part of the original road allowances are impassible or difficult to build a road upon, and as the parties interested were only too glad to get a road no objections were made at the time to locate it where it could



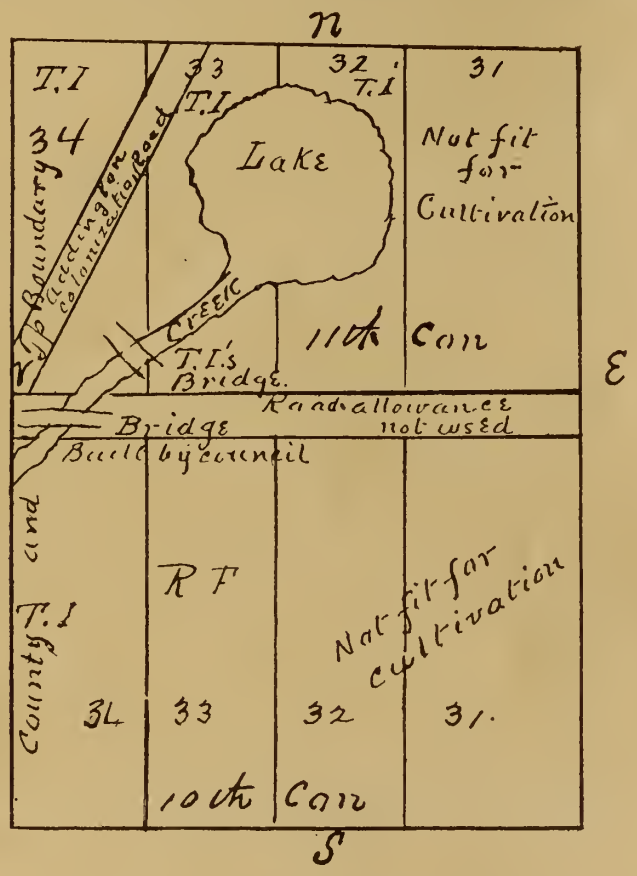
be made best cheapest. Part of this road crosses lots Nos. 29 and 30, in the 9th concession, as shown in plan. Lot No. 30 was then occupied by and located to F. B., while No. 29 at the time was still Government land, but was some years later also located to F. B., who still occupied both lots. None of the land has as yet been patented, as the settlement duties have not been fully complied with. No further steps to legally establish the road or to secure a proper claim for the land so used, except as above stated, were ever taken. No public moneys were spent in building that part of the road, but statute labor was performed on it partly under the overseeing of F. B. as pathmaster. The public has travelled the road without protest since it was first built until a couple of months ago, when F. B. had a dispute with a couple of parties who hold land beyond him, and forbid them to cross his land in the future. He also blocked the road by falling trees across it, and put notices up forbidding the public to cross his land. The original allowance south of the said lots is not impassible but more hilly and difficult to

build upon than the present site. The road allowance west of lot No. 30 is said to be impassable though a road can be made much nearer to it than the road first built, but at considerably more expense.

1. If the council could, against the will of F. B., retain the road now built, or if the road would have to be forced across his land, how should the council deal with F. B. if he persists in blocking the road ?

2. We have considerable non-residents' lands in our municipality which has been located to free grant settlers, but afterwards abandoned against which considerable arrears of taxes have accumulated. Can the locatees' claims on these lands be sold for arrears of taxes ?

3. Supposing a locatee for land on which arrears of taxes have accrued gets his location cancelled, and another party gets located for it, could the arrears be lawfully collected from the second or last locatee and the land or claim to it sold if he refuses to pay them ?



4. Two ratepayers only own land lying across a large creek. T. I. owns lot No. 34, in the 10th, and lots No. 32, 33, 34, in the 11th concession, while R. F. owns lot No. 33, in the 10th concession, as shown on plan. Some years ago T. I. applied to the council for assistance to build a bridge across the creek, which was refused, as most of his land lies between the creek and the public road. He then built his own bridge, but refused to let his neighbor use it, and as R. F.'s did not touch a public road, though it is on a road allowance, the council did build a rather expensive bridge just to enable that one settler to get to his land. Considerable fault-finding has been done by other ratepayers when the grant for the bridge was made, as they exceeded the amount of all the taxes which had ever been paid on that lot. This bridge is now reported to be unsafe, and R. F., who does not even reside on that lot, asks for another large grant to repair it, and threatens to sue the council for damages if any injury should be done to his team while crossing it. Would the council be justified to keep that bridge in repair for the benefit of one ratepayer only, at the expense of the corporation? Would the corporation be liable for damages if any injury should happen to R. F. if he knows that the bridge is unsafe ? What action would you advise the council to take in the matter ?

1. The proceedings leading up to the establishing of this road appear to have been informal and unauthorized by statute. The council is not bound to establish a road in this locality ; but if the general public convenience, in the opinion of the council requires it, it may pass a by-law for the opening and establishing of such a road under the authority of section 637 of The Consolidated Municipal Act, 1903, after having strictly observed the preliminary formalities required by section 632 of the Act. If the council has to expropriate lands for this purpose, and cannot agree with the owner as to the amount of compensation to be allowed, the question will have to be settled by arbitration, as provided by section 437 of the Act.

2. Section 151 of The Assessment Act of 1904 makes the interest of the locatee only saleable for taxes. The facts of this case are not stated clearly enough to enable us to express a definite opinion. If there are arrears of taxes which accrued against the first locatees, but their interests in the land were forfeited to the Crown, we do not think that the interest of the present locatees can be sold for such arrears. On the other hand, if the present locatees purchased from the first locatees, their interest would be subject to the taxes accrued during the holding of the first locatee as well as the taxes accrued during the holding of the present locatees.

3. No. By the surrender to and cancellation by the Crown of the first locatees' claim to the land, it became extinct, and the land became re-vested in the Crown.

4. The convenience of the general public did not seem to require the building of this bridge, and it should not have been erected simply to accommodate one owner. As long as this bridge is allowed to remain where it is, it must be kept in repair by the municipality, otherwise it will be liable in damages to anyone injured by reason of its non-repair and without such contributory negligence on his part as will debar him from recovering damages. The council is not bound to keep this bridge in repair, and if they do not consider it advisable to do so, may remove it, giving the general public and residents of the locality as conspicuous notice as possible that they have done so.

Qualification of Voters.

55—G. M.—There is an incorporated company in our township called the G. P. Co. that leased a piece of property on the south shore of Lake Ontario for the purpose of a summer resort. The company have sold lots to people from the cities, who have built cottages on them for their families to live in during the park season, which lasts through July and August. The rest of the year the park is deserted. There are now about 130 cottagers who claim they are owners, and are entitled to vote at our municipal elections. I might say that the company's lease runs for 99 years, and the lots were sold subject to that lease. The cottagers are assessed for the lots and their names are on the voters' list.

Do you think they can legally vote at our municipal elections, they being non-residents ?

We assume that these cottagers were assessed as freeholders of their respective premises, and are on the voters' list of the municipality as owners. If this is so, considering the nature of their tenure, we do not think they are "freeholders" within the meaning of sub-section 1 (firstly) of section 86 of The Consolidated Municipal Act, 1903, but this is a question that should have been settled by appeal to the Municipal Court of Revision or County Judge on the revision of the voters' list. Section 89 of the Act provides that "no question of qualification shall be raised at any election, except to ascertain whether the person tendering his vote is the person intended to be designated in the list of voters." According to this provision one would suppose that the question of qualification could not be raised, but on looking at the form of oath required to be taken by a person voting as a freeholder, it will be seen that the voter is required to swear that at the date of the election he is a freeholder, etc. If one of these persons tendering his vote should be required to take this oath we do not see how he could take it. For form of oath see section 112.

Collection of General School Levy in Union Sections.

56—T. P. N.—Our council struck a levy of 19 mills for general school tax, and in making the collector's roll I took the levy which the clerk in the adjoining municipality gave me as the union school is built in his municipality, and did not allow any general school tax in my own part of the union school for my own municipality.

When the levy is struck for general school tax, does it include all territory in that municipality independent of the union schools if the union school house is built in another, or do we in this part of the union school section pay the requisition and general school tax over to the other municipality in which the school house is built ?

The general school rate provided for by section 70 of The Public Schools Act, 1901, should be levied rateably and proportionately against all the taxable property of the public school supporters of the WHOLE township. It makes no difference whether this property is located in part of a union school section or not ; the location of the school house does not affect the question in any way. Section 49 of the Act provides that "the collectors of each municipality in which part of a union section is situate shall collect the school rates for that part and the amount collected from the several ratepayers in each part of the union section shall be paid by the respective collectors to the treasurer of the municipality in which such part of the union section is situate, and the treasurer shall pay over the same without any charge or deduction to the trustees entitled thereto."

Non-Resident May be Assessor.

57—W. M.—I have assessed the Township of U. for the last 14 years. I am now living out of the township one-half mile from the boundary line. I have my property in the township yet. The old council board are all elected again by acclamation. They want me to do the assessing again for 1905.

Is it legal for me to apply for, and do the assessing of the township, while living outside of it ?

Yes.

Application of Accumulation of Dog Tax.

58—J. F. S.—When the dog tax fund has increased to a large sum, can a council apply this to the general uses of a township, and if so, how ?

Section 7 of chapter 271, R. S. O., 1897, provides that "the money collected and paid to the clerk or treasurer of any municipality under the preceding sections, shall constitute a fund for satisfying such damages as arise in any year from dogs killing or injuring sheep or lambs in such municipality ; *and the residue, if any, shall form part of the assets of the municipality for the general purposes thereof ;* but when it becomes necessary in any year for the purpose of paying charges on the same, the fund shall be supplemented to the extent of the amount which has been applied to the general purposes of the municipality."

Audits.

The appointment of good auditors is important. Capable men are not to be found or are not appointed in every municipality. An evidence of this is the number of special audits made from time to time and the fact that the Provincial Municipal Auditor has been profitably busy since his office was established. The annual reports of this official should be kept on file in every municipal clerk's office for the information of local auditors. The recommendations of special auditors contained therein point out defects and offer valuable suggestions for the improvement of municipal business methods. The criticism of municipal securities published in another column of this issue directs attention to a state of affairs that auditors should report on when found to exist.

To have the municipal business of the Province conducted properly and in accordance with modern methods would be a valuable asset.

The following extracts from the Provincial Auditor's reports will be of interest to councillors and others :

1900.

An audit of the accounts of a city or town demands a far higher degree of skill than is generally supposed. Such expert skill is entitled to much higher remuneration than the average municipal council of a moderate sized city or town is willing to pay for such services as are necessary in order to avoid its accounts becoming irregular.

1901.

My attention has been called to the fact that sufficient importance is not attached by the local auditors to the securities given for the responsibilities of county, township and other municipal treasurers. There is reason to believe in many cases that these securities are worthless, either being improperly drawn, outlawed, or expired by effluxion of time. This is a most important matter, and should not be overlooked by municipalities.

A Municipal Audit and How it Should be Conducted.

Balance Brought Forward.

In the first place the auditors for the year should have seen that the balance brought forward for the first of the year, whether in bank or on hand, is an actual balance, in other words they should have verified both the bank balance with the bank book and the cash balance with the cash, taking nothing for granted.

Receipts.

The most important item of receipts is of course derived from the municipal rates, or the tax collector's roll. The auditors are expected to see that the amount paid for the year they are auditing and the amount outstanding equal the amount called for by the assessment roll for that year, and to prevent mistakes, it is also desirable to check the previous year in the same way. It is also within the auditor's province to see that the assessment roll and the collector's roll have been properly checked, if they have not themselves performed that duty. Each payment made by the collector to the treasurer should be receipted for by the latter officer in his receipt book, and also numbered. The auditors check the amount and also the number, and stamp each voucher stub with the stamp, which it is expected they will procure for that purpose. The stamp can bear the words "audited." It is used with indellible ink and a pad, and costs about $1.

As the treasurer should grant receipts for all moneys paid him, he will produce the voucher stubs to the auditors, who will see that they are properly entered and numbered in the cash book.

The above applies to all receipts for moneys paid to the treasurer, such as :

Resident taxes.
Non-resident taxes.
Arrears of taxes.
Waterworks.
Electric light.
Frontage taxes.
School moneys.
Debentures.
Loans.
Licenses.
Fines, and all other sources of receipts or revenue.

Disbursements.

The same rule of entering applies to the above. The treasurer will probably have two or three receipt books. The auditors will see that the payments are all numbered and properly entered, marking with stamp as in case of receipts, but not necessarily on the stub, the receipt can be marked. All cheques should be similarly stamped, also retired debentures and coupons. It is obvious that the officers should use their judgment in passing accounts. Any uncommon payment should be questioned at once.

Collateral Evidence.

If any source of revenue has ceased to exist, the auditors should make a note to that effect. For instance, if the municipality held some debentures from which in the past they had derived revenue, and these debentures had reached the stage, when they had all been paid, they should make a memorandum to that effect in their report. This applies to any other source of revenue which has disappeared from the annual statement.

Recapitulation.

It follows, therefore, that if the auditors start with a correct balance at the first of the year, if they check properly all the sources of revenue that have been paid into the treasurer's cash book, and check also all the disbursements made by the treasurer, that the balance they find must be a true one. The printed statement of receipts and expenditure should be as simple as possible, so that no ratepayer should have difficulty in understanding it, and the same may be said of the statement of assets and liabilities.

General Remarks.

It is the duty of the auditors to see that the treasurer's securities are all in good order and to report the same to the council. This is one of the most important of the auditor's duties.

The auditors should also see that any insurable property belonging to the municipality should be covered by insurance in some responsible Fire Insurance Company. If the council declines to follow this recommendatiou the auditors have no further responsibility in the matter.

The bank account, if practicahle, should be kept in a chartered bank, and once a year at least the auditors should check the balance with the manager or accountant of the bank.

It is very important that the auditors should make themselves familiar with the by-laws of the municipality, and it is incumbent on them to make a special report of any payment made contrary to law.

The auditors should also see that the treasurer keeps the corporation funds separate from his own, and when possible to make his payments by cheque.

The following important duties should be performed by the auditors, and the council should see that they are carried out :

1. Compare assessment roll with collector's roll to see that the assessed values on which the rates are levied are correctly entered.
2. Compare school section entries with school section map and check valuations on which school rates have been levied.
3. Check all entries and additions on the roll.
4. Verify the correctness of all rates and taxes levied by by-laws, proceedings of council, engineers' drainage, awards and certificates, statute labor lists, fenceviewers awards, county treasurers' accounts, school trustees' requisitions, or other authority.
5. The collector's account with the treasurer should be examined, and also settlement of roll, which should be verified under oath and in accordance with sections 147 and 148, now section 113 of The Assessment Act.
6. Every stub of the treasurer's receipt book, and every document or roll audited should be properly stamped as required by the Act of 1898.
7. The treasurer's vouchers should be carefully examined to see that each payment was authorized by proper authority, and that a proper receipt is attached.
8. The auditor's report should refer to the condition of the treasurer's security, and also to the insurance on corporation property.
9. The auditors should show what cash balance, if any, is due from treasurer to municipality—and where such balance is deposited.
10. If any source of revenue has ceased to exist, or if the last payment has been made on any special assessment, the auditors should make a report to that effect in their report.
11. It is very important that the auditors shonld make themselves familiar with the by-laws of the municipality, and it is incumbent on them to make a special report of any payment made contrary to law.

1902.

A careful review of the work of the Department for the year appears to indicate that, although much has been done to better the position of municipal affairs, so far as the books and accounts are concerned, that much still remains to be done. If municipalities would appoint as auditors only men who had some knowledge of accounts, matters would be very much improved. Take as a case in point that of the Township of Dawn. In this instance for twelve years the auditors passed accounts and certified to their correctness, when they were several thousands of dollars wrong, and the treasurer knew they were wrong. The loss of the interest entailed by this dereliction of duty would have amply paid for competent auditors twice over. The fact that the municipal losses are not much larger than they are has often impressed me, when the meagre salaries given to both treasurers and auditors are considered. I am not sanguine of much improvement in municipal affairs until there is more consideration shown to the officers who are responsible for the administration of the financial part of these affairs. It speaks well for the moral status of the average municipal treasurer that, considering his remuneration, he performs his duties as well as he does. There are exceptions, of course, but it does not always happen that the poorly-paid officer is the dishonest one. It is quite possible for a man to be a good accountant, and have his books, on the face of them, correct, and he may be in receipt of a good salary, but if he lacks the cardinal principle oj honesty he is worse than the ignorant man who scarcely knows the first principle of of accounts. Monthly audits in cities and towns, and quarterly audits in counties, townships and villages, would be a great improvement on the old system of yearly audits, and should be insisted upon wherever practicable.

1903.

I must admit it is disappointing that more of the municipal treasurers do not keep a bank account. I do not mean a deposit account, but a regular bank account, depositing the receipts and paying by cheque for all disbursements of the municipality. When I urge the matter of keeping a bank account, the reply is generally : "We are so far away from any bank, and it would never do to pay by cheque, as our cheque would not be accepted ; in fact it would be useless to attempt it." To this I answer that a bank account could be profitably and easily kept, even when the treasurer is ten or fifteen or twenty miles away from his banker. He could always keep a small amount of cash on hand, say $200 or $250, and cash his own cheques. I know of cases where it is done, and it works well. A great many of the township treasurers have young people growing up, and in many cases keeping the cash book for them. No better education in a practical business way could be devised than for a young man to be able to keep a regular bank account, as set forth in the Government cash book. Another point is that the treasurer of any municiphlity should not be expected to take the risk of frequently thousands of dollars being in his hands, subject to damage from robbery, fire or accident of any kind. I trust that the present year will show a larger increase in municipal bank accounts throughout the country.

Although in most municipalities the nominations for councillors were received on the 26th December, there was some difference of opinion as to the proper date owing to an amendment to The Interpretation Act in chapter 7, section 2, of Ontario Statutes, 1903, which provides :

"Whenever a holiday falls on a Sunday, then the next day following shall be in lieu thereof a legal holiday throughout Ontario and shall be kept as such under the same name."

In preparing the December issue we considered this and decided that the 26th was the proper date. Mr. Dymond, law cierk of the Legislature, also gave out an opinion agreeing with us. Some solicitors, however, advised differently, and the nomination meeting was held on Friday, the 23rd December. Nomination meetings should only be held on the preceding Friday, when the last Monday in December falls on the 25th day of the month.

* * *

Messrs. A. Hill & Co., of Mitchell, found the past season a very busy one, having erected thirty-five steel bridge superstructures. They have still eight contracts ahead of them, and the prospects for a largely increased business in 1905 are very bright. They have also seven bridges to cover with concrete, and expanded metal, and say that this class of permanent bridge roadway is becoming very popular.

* * *

The attention of our readers is directed to the advertisement of The Canada Carbon Light Company of Toronto, which appears elsewhere in this issue. All parties desiring a reliable and up-to-date lighting plant should correspond with them at once. Their system is fully endorsed by *The Canadian and National Boards of Fire Underwriters.*

* * *

It is the selfishness of indifference that is the real menace to our public life, displayed very often by people who imagine they are the salt of the earth. The reputable people who are absorbed in serving the interests of their families, but forget all about the larger public interests, who are so devoted to their private affairs, that they have no time to look up the record of the men for whom they vote, consider the principles at stake, or even go to the polls, who will not go to a convention or stand up for a cause that is unpopular, these are the people most to be feared. It is these negatively reputable people who are the great burden, which must be lifted in every movement for municipal or political reform.

Legal Department

J. M. GLENN, K.C., LL.B. Of Osgoode Hall, Barrister-at-Law

Re KELLY AND TOWN OF TORONTO JUNCTION.

Local Option By-Law—Application to Quash—Irregularities in Proceedings Preliminary to submission of to Electors.

Judgment on motion of Charles A. Kelly for a summary order quashing by-law No. 551 of the Town of Toronto Junction, being a by-law passed under the local option clauses of The Liquor License Act, providing for the prohibition of the sale of intoxicating liquors in the town. The motion was made on the ground that the procedure in the council was irregular, there having been no motion made and carried that the by-law be read a second time, but the by-law having been read aloud by the clerk upon what was called the second reading, and the Mayor having declared that it had passed its second reading, after a motion that consideration be deferred for two months had been voted down by 8 to 3. Held, that the objection is extremely technical and not meritorious. Local option by-laws are subject to statutory provision, and receive their real assent and validity from the vote of the people. In this case a substantial majority of the voters favored the by-law, which was then finally passed by the council, and the court ought not to be astute to declare all the proceedings inoperative by reason of some irregularities in preliminary proceedings of the council. Opportunity, moreover, was afforded for the fullest and freest discussion of the by-law at its different stages. The procedure adopted was the usual procedure of the council. It was a matter of internal regulation and the mayor was the judge thereof, subject to the appellate jurisdiction of the council. As a matter of strict law, this application ought not to succeed, but if there is any discretion, it ought to be exercised in the same direction.

HEMPHILL v. TOWNSHIP OF HALDIMAND.

Claim for Damages—Stones Piled on Highway.

Judgment in action tried at Cobourg. Action for damages for injuries received by plaintiff by being thrown out of a buggy by reason of her horse becoming frightened by some stones which had been put on the highway by defendants, the Gaffields, as she alleged, unlawfully, and which the defendant corporation, she alleged, had neglected to remove within a reasonable time. Action dismissed without costs.

TAYLOR v. TOWNSHIP OF COLLINGWOOD.

Damages From Overflow of Water From Highway—Injunction.

Judgment on motion by defendants to suspend injunction pending appeal. Held, that plaintiff's contention being that the injunction absolutely restrains the defendants from allowing any water to pass from their highway over plaintiff's land, even into the stream into which such waters have been accustomed to flow for some years, the operation of the injunction must be suspended until the appeal can be disposed of. If it were merely a question of regulating the discharge of the waters into the stream so that they should not overflow the plaintiff's land to his damage, defendants might be left to make such temporary provision for this as they might be advised, but, as it is insisted that the effect of the judgment is to compel them to carry or divert the whole of these waters in some other direction, it would be unreasonable to compel them to incur the expense of doing this while the judgment is in appeal. This course will leave the rights of the parties as they stood at the commencement of the action unaffected, and, if by neglect of defendants, waters are allowed to overflow plaintiff's lands to his damage, there is nothing to prevent him from bringing another action therefor. Order made as asked. Costs in the cause.

PATRIARCHE v. TOWN OF ORILLIA.

Action on Contract—Failure to Amend—Dismissal of Action.

Judgment on appeal by plaintiff from judgment of H. H. Strathy, K.C,, sitting for the trial of the action by the consent of parties and at the request of Britton, J., dismissing the action with costs in default of plaintiff amending, which he did not do. Action to recover $211,465.52 for work materials expended and used in the construction of a certain dam and electrical works at the Ragged Rapids, in the river Severn, for and at the request of the defendants, who were authorized to construct and to raise money to pay for the works by private Acts of the Ontario Legislature passed in 1899 and 1902. Held, Britton, J., dissenting, that the learned King's counsel was entirely right in the result at which he arrived, but plaintiff should have another chance of amending his pleadings by claiming under the contract. Plaintiff to have two weeks to amend, and if he amends, the matter may be brought up again before the court. If he does not amend within that time the appeal will be dismissed with costs.

REX EX REL. SEYMOUR v. PLANT.

Motion to Unseat Councillors—Diversion of Sinking Fund—No Such Fund When Debentures Payable by Annual Instalments.

Judgment on motion to set aside election of reeve and councillors of Township of Maidstone, under The Municipal Act, 3 Edw. VII., ch. 19, sec. 418, sub-secs. 2 and 3. The substantial question was whether the words "sinking fund" in subsection 2 are equivalent to the words "sinking fund or instalments of principle" in section 417. The debentures in question were payable some of them each year, so that there was no sinking fund in the usual sense and no separate account was kept of the rates levied for their redemption. The relator contended that the taxes collected for the principal of the debentures maturing in each year might properly be termed a "sinking fund." Held, that the statute should not be so interpreted, though the matter was not free from doubt, as that interpretation would involve not only the unseating of the respondents, but the penalty of two years' disqualification. Motion dismissed without costs.

HOLLAND v. TOWNSHIP OF YORK.

Non-Repair of Highway—Establishment of by User and Building of Sidewalk Thereon—Action for Damages.

Judgment in action tried without a jury at Toronto. Action to recover damages for personal injuries sustained by plaintiff owing to a highway being out of repair. The highway was under the jurisdiction of defendant corporation ; it was proved that it was out of repair and dangerous to travellers, and that plaintiff received his injuries owing

to that want of repair ; but it was contended by defendants that the highway was not one which defendants were bound to keep in repair. The highway was not an original allowance for road, but came into existence either by dedication by a private person before the filing on 22nd February, 1881, of a plan of subdivision of part of lot 4, in the 5th concession, west of Yonge street, in the Township of York, on which the highway was laid down by the name of Dennison Avenue, or by the filing of the plan followed by the sale of lots fronting on that street. Held, that the highway, being one laid out by a private person, came within the exception mentioned in sec. 607 of The Municipal Act, R.S.O., ch. 223, (3 Edw. VII., ch. 29, sec. 607), and there was no duty cast upon defendants to keep it in repair unless or until it had been "established by by-law of the corporation or othewise assumed for public use by such corporation." The highway had been used as such for many years, and there was evidence that a sidewalk had been built upon one side of that part of it upon which the accident happened, which sidewalk was built by the defendants, and paid for under an appropriation made by by-law of defendants. Held, that this was sufficient to establish that the highway had been assumed for public user by defendants within the meaning of sec. 607. It supplied what was wanting in Hubert v. Township of Yarmouth, 18 O.R., 458, and was a corporate act clear and unequivocal and such as clearly and unequivocally indicated the intention of defendants to assume the road. Rex v. Leake, 5 B. & H. d. 469, and Rex v. French, 41 L.T.N.S. 63, 67-68, referred to. The provision as to statute labor, contained in sec. 598, was relied upon by defendants in support of their contention that proof of a single act, such as the laying of a sidewalk is not sufficient to justify a finding that the highway on which it was laid has been assumed for public user by the corporation. Held, that that provision has no bearing on the question. The purpose of sec 598 is to declare that certain classes of roads are public highways, and one of these classes is roads "whereon the statute labor has been usually performed." Proof that statute labor has been usually performed establishes that the road is a public highway, and that, too, as against the owner of the land upon which it exists, while, on the other hand, the purpose of sec. 607 is to relieve the municipality from liability to repair an actual highway for the repair of which it would otherwise be liable, where the highway has been laid out by a private person, unless the corporation has established it by by-law or otherwise assumed it for public user. Held, also, that, although the materials which caused plaintiff's injuries had been placed upon the highway by a wrongdoer, defendants were liable. The highway was, apart from the effect of the materials placed upon it, and had been for a long time, in a very bad state of repair, so covered with water at certain seasons of the year that it was impossible for a pedestrian to pass from one side to the other without wading through mud and water, and defendants ought to have anticipated that some such means of passing from one side to the other as was adopted by the third parties would probably be used. The accident to plaintiff happened on 25th February, 1903, and was caused by cinders which the third parties had spread upon the road in order to afford a passage across it, and they had been put there about a week before the accident. Defendants were negligent in the performance of their statutory duty to keep the highway in repair, and plaintiff is entitled to recover. Damages assessed at $250 and judgment for plaintiff against defendants for that sum with costs. Judgment for defendants over against third parties for the amount of damages and plaintiff's costs, together with defendant's costs of defence and of the third party proceedings.

Re McLAREN et al v. TOWNSHIP OF BROMLEY

Water Privilege—Purchase of to Prevent Overflow of Adjoing Lands—Removal of Dam Causing the Accumulation of Water.

In this action tried at Renfrew before Drainage Referee J. B. Rankin, K.C., judgment has been given in favor of the McLaren estate for the sum of $20,000 as the value of the water privilege for the saw and grist mill on the stream flowing through Osceolo. The sum of $2,000 has been awarded to McIntyre for his right in the stream formerly used for the purpose of running a woollen mill, but which was burned down a few years ago. The claimants were also given costs on the High Court scale. The McLaren estate will have the right to continue the running of their mills until about the 1st of March next, and on the payment of above sums the dam is to be removed. The dam as now in existence causes the water above to overflow and damage the lands in the Township of Bromley which adjoin the stream. The removal of the dam is asked for by a majority of the persons affected thereby. The amount allowed by the engineer of the township was much below the value of the dam to the owners, and in consequence they appealed from his report to the referee.

RYKERT v. WATERWORKS COMMISSION OF ST. CATHARINES.

Building of Dam for Water and Power Purposes—Pollution of Water Supply.

The plaintiff, a ratepayer of the city of St. Catharines, moved to continue an interim injunction granted by the local judge at St. Catharines, upon the plaintiff's ex parte application, restraining the defendants, the Waterworks Commission, the corporation of the city of St. Catharines and the Hamilton Cataract Power, Light and Traction Company, from proceeding under an agreement between the Waterworks Commission and the company for the building of a dam across the Beaver Dam and so polluting the water supply of the city of St. Catharines, and for laying a cast iron pipe from Lake Gibson to connect with the city supply instead of getting it from the Welland Canal, and restraining the defendants from executing a new agreement, to which the city corporation are to be parties, to the same effect, upon the ground that the agreements are ultra vires. Motion adjourned to complete material. Injunction not cont nued. No opinion expressed on the merits.

Re WATEROUS AND CITY OF BRANTFORD.

By-law Diverting Street—Interests of the Public Should be Subserved—Motion to Quash.

Judgment on application by Julius E. Waterous for an order quashing by-law No. 770 of the City of Brantford to divert Jex street in that city, upon the ground that the by-law was passed, not to subserve the interests of the public, but those of the Waterous Engine Works Company, and upon other grounds. Order made quashing the by-law upon the ground mentioned, with costs.

Statement of Fact.

The ONLY TRUE MEASURE of the *normal* CAPACITY of a properly designed Generator is the CURRENT it will develop SAFELY under SHORT CIRCUIT with normal (FULLY EXCITED) FIELD within a stated temperature for a given period of time, the *maximum capacity* being the current at safe temperature under *fully saturated field*, short circuit to be applied when the generator is giving out its standard voltage, and the *same test* should be made *on all* direct current motors and synchronous alternating motors, by operating them as generators.

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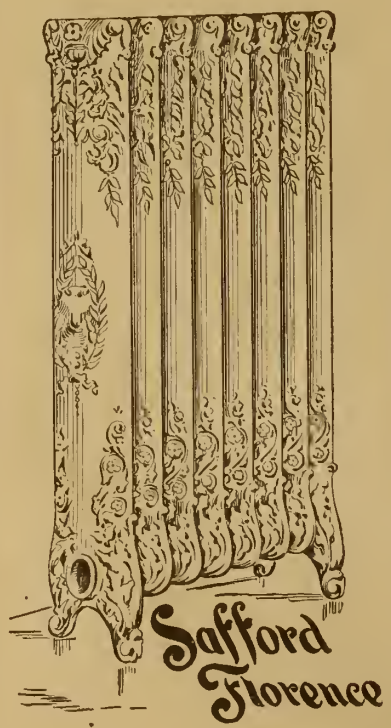

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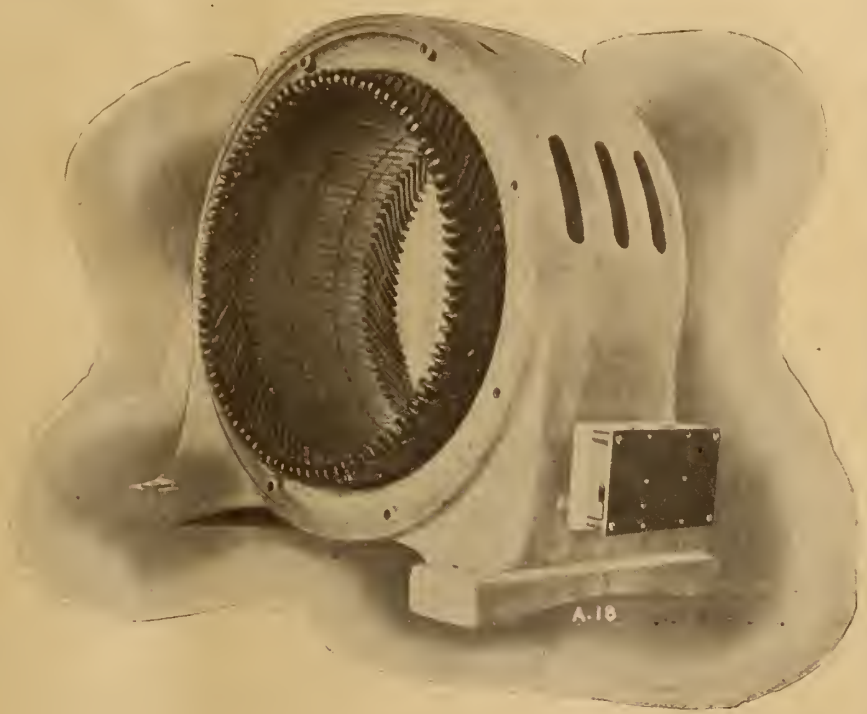

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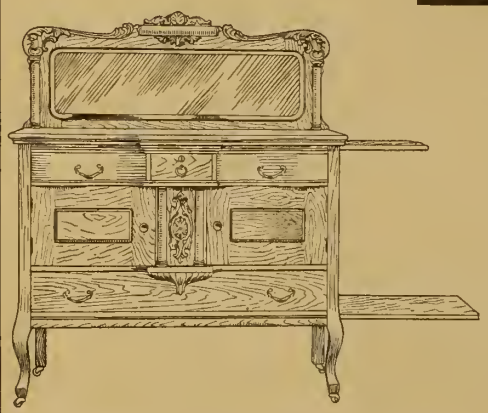

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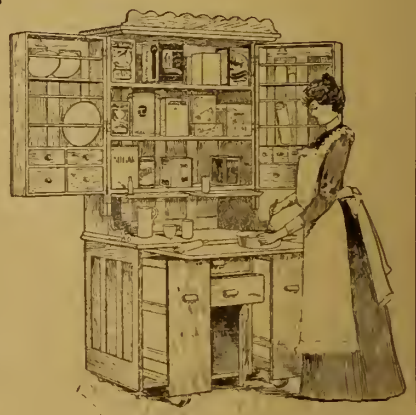

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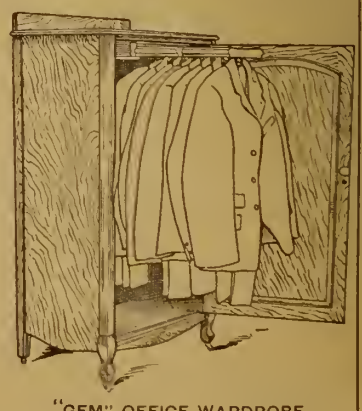

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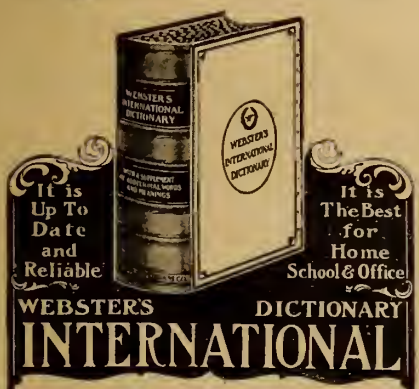

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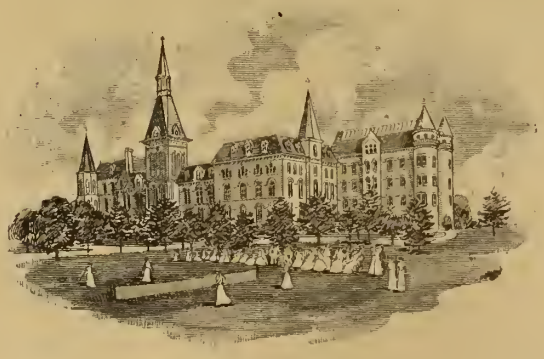

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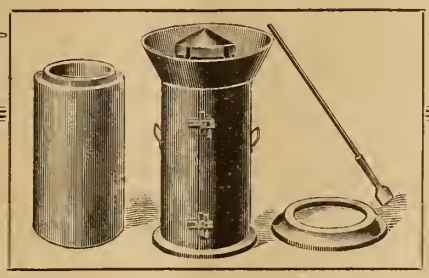

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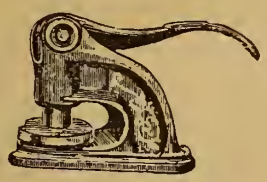

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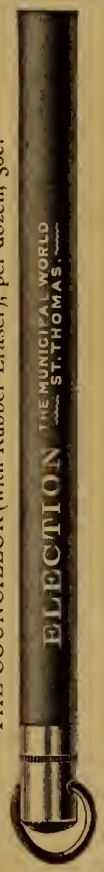

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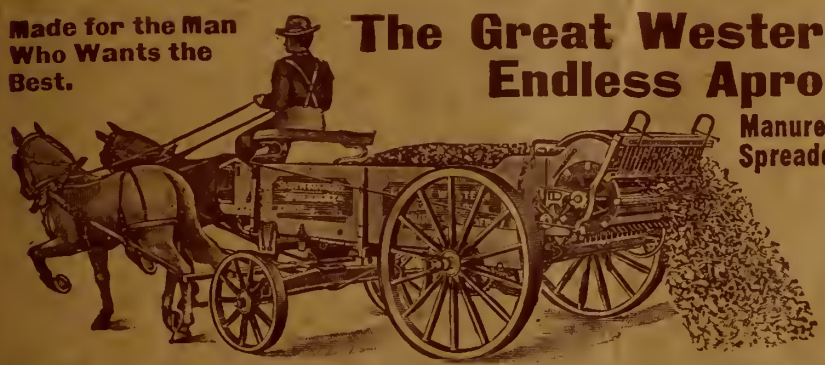

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